United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *106th* CONGRESS, SECOND SESSION

Vol. 146 WASHINGTON, TUESDAY, OCTOBER 31, 2000 *No. 141*

Senate

(Legislative day of Friday, September 22, 2000)

The Senate met at 2:01 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

O Gracious Father, all that we have and are is Your gift. Sharpen the memories of our hearts so that we may have an attitude of gratitude. You have been so faithful to help us when we have humbly asked that You would give us Your guidance and strength. May we be as quick to praise You for what You have done in the past as we are to ask You to bless the future. We have come to You in difficulties and crises and You have been on time and in time in Your interventions. Thank You, Lord, for Your providential care of this Senate as it deals with the immense challenges in completing the work of this 106th Congress. Grant the Senators a heightened sense of the dynamic role that You have given each of them to play in the unfolding drama of American history.

And Lord, the Senators would be the first to express gratitude for their staffs who make it possible for them to accomplish their work. Together we praise You for all of the people who enable this Senate to function effectively—all of those here in the Chamber, the parliamentarians and the clerks, the staff in the Cloakrooms, the reporters of debates, and the doorkeepers. We thank You for the Capitol Police, elevator operators, food service personnel, and those in environmental services. Help us to express our gratitude to all of them as essential members of the Senate family.

And today we share grief at the recent death of Betty Bunch, who served the Senate so faithfully for 23 years and was strategic in implementing the Sergeant at Arms' Postal Square facility.

Most of all, we are thankful for You, dear God, Sovereign of this free land, Source of all of our blessings that we have, and Lord of the future. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHARLES GRASSLEY, a Senator from the State of Iowa, led the Pledge of Allegiance, as follows:.

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

NOTICE—OCTOBER 23, 2000

A final issue of the Congressional Record for the 106th Congress, 2d Session, will be published on November 29, 2000, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through November 28. The final issue will be dated November 29, 2000, and will be delivered on Friday, December 1, 2000.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at ''Records@Reporters''.

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerkhouse.house.gov. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, signed manuscript. Deliver statements to the Official Reporters in Room HT–60.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record may do so by contacting the Congressional Printing Management Division, at the Government Printing Office, on 512–0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

WILLIAM M. THOMAS, *Chairman.*

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Iowa is recognized.

SCHEDULE

Mr. GRASSLEY. Mr. President, for the majority leader, I wish to announce today's program.

The Senate will be in a period of morning business until 6 p.m. with Senators LOTT, REID, and WELLSTONE in control of the time. Today the Senate will agree by unanimous consent to the continuing resolution that funds the Government until tomorrow.

As a reminder, cloture was filed on the bankruptcy bill yesterday, and that vote will occur tomorrow morning possibly around 9:30 a.m. A vote on a continuing resolution will also take place during Wednesday's session. The President has vetoed the important legislative branch and Treasury-Postal appropriations bills. However, negotiations will continue to try to come to a consensus to fund all Government programs throughout the year.

I thank my colleagues for their attention.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say to my friend from Iowa, the acting leader today, that, of course, we are very disappointed that the tremendous work done by all the participants, Republicans and Democrats, Senator STEVENS, Senator BYRD, Senator HARKIN—it was a bipartisan effort—yesterday morning we had an agreement on the very important Labor-HHS bill. As a result of the actions of the whip of the House, TOM DELAY, that bill fell through. It was a terrible disappointment for everybody. We hope that there is a way to complete action on these bills. Each day that goes by, I become less encouraged, but I hope that something can be worked out.

Yesterday, we had the makings of a very important compromise. I am disappointed that it fell through.

Mr. President, we are going into, as has already been announced by Senator GRASSLEY, 4 hours of morning business. On this side, we have 2 hours, or whatever part thereof remains from the brief statements of Senator GRASSLEY and I. The time was basically set aside for Senator WELLSTONE. He has another issue that he wants to speak about; namely, bankruptcy. But he graciously has consented to allowing Senators BOXER, BAUCUS, DORGAN, DURBIN, and HARKIN to have 5 minutes each during his time.

I personally express my appreciation to the Senator from Minnesota for allowing these Senators to speak. I again say that it is too bad we are not completing all of our work here today rather than figuring out some way to get out of town in the next few days.

So I would ask unanimous consent that those people—Senators BOXER, BAUCUS, DORGAN, DURBIN, and HARKIN—be allowed 5 minutes each during the time of morning business today.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 6 p.m. with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the time until 4 p.m. shall be under the control of the Senator from Nevada, Mr. REID, or the Senator from Minnesota, Mr. WELLSTONE.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I will grant 5 minutes to the Senator from Montana.

I say to the Senator from Iowa, if I can get his attention, following the Senator from Montana, I think the Senator from Iowa wants to speak. So the Senator from Iowa will follow. I think he is going to take that time out of the Republican time.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair. I thank my good friend from Minnesota.

TRIBUTE TO SENATOR DANIEL PATRICK MOYNIHAN

Mr. BAUCUS. Mr. President, Mike Mansfield, Scoop Jackson, Richard Russell, Russell Long, Lyndon Johnson, Lloyd Bentsen, Bob Dole, John Chafee, DANIEL PATRICK MOYNIHAN, who are these men? They were the giants in the Senate in the quarter of a century before and after our bicentennial. They are the models to whom we all aspire. They are the most recent generation of statesmen who helped lead our nation to the greatness of today.

I was elected to the Senate 2 years after PAT MOYNIHAN entered this body. I have had the honor, the pleasure, and the privilege of serving with PAT MOYNIHAN for 22 years.

In fact, I have spent two-thirds of my adult life working with PAT MOYNIHAN—watching this intellectual giant, listening to this scholar and visionary, learning from this teacher, this social critic, this political master.

Who is PAT MOYNIHAN? University professor, diplomat, Cabinet Secretary, fighter of poverty, social analyst, distinguished and prolific author, defender of worker rights everywhere, U.S. Senator, mentor, humanist, citizen, friend.

PAT published his first book in 1963. ''Beyond the Melting Pot'' looked at minority groups in New York City. Its conclusion was that the prevailing assumption at the time was wrong, that assumption being that minorities assimilated into the broader American culture.

PAT wrote his most recent book in 1998. ''Secrecy, the American Experience'' explained how secrecy in government deformed American values in the 20th century.

In between, he authored 16 other books—believe it or not; 16—on subjects that included poverty, family, ethnicity, and social policy.

In 1963, with ''Beyond the Melting Pot,'' PAT was at the cutting edge, as we were beginning to struggle more honestly with the problems of minority groups in this country. Thirty-five years later, with the publication of ''Secrecy, the American Experience,'' PAT is still at the cutting edge.

We are struggling to transform our institutions away from a culture that fought the cold war to a culture where the Internet thrives. Openness and transparency are valued again, and information is decentralized, distributed, and widely available.

During those intervening three and a half decades, PAT was always at the cutting edge in forcing us to rethink our fundamental assumptions about poverty, family, Social Security, ethnicity, and a wide range of domestic and global issues.

One area where PAT has made an enormous contribution to bettering our society—and yet is little recognized for it—is public architecture. He was one of the driving forces—in fact, the major driving force—to renovate Pennsylvania Avenue, to complete the Navy Memorial, Pershing Park, the Ronald Reagan Building, the restoration of Union Station, and the Thurgood Marshall Judiciary Building.

We, and our descendants, who visit our Nation's capital will have our lives enriched because of PAT MOYNIHAN's vision.

Let me conclude with a quotation from PAT. In 1976, he said: ''The single most exciting thing you encounter in government is competence, because it's so rare.'' I would change that to read: ''The single most exciting thing you encounter in government is greatness, because it's so rare.'' And that exciting thing, that exciting person, that greatness, for me, has been DANIEL PATRICK MOYNIHAN.

There is no higher calling than public service. PAT MOYNIHAN has been its embodiment for half a century.

We will all miss you, PAT, miss you very much.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to make sure that the time I use now does not come out of the Democrat time. So it will come out of the Republican time. And the Democrat time should be extended beyond 4 o'clock by the amount of time I speak.

The PRESIDING OFFICER. That is the understanding.

FAMILY OPPORTUNITY ACT OF 2000

Mr. President, I rise today to talk about the Family Opportunity Act, S. 2744. Senator KENNEDY and I introduced this bill in March of this year. Representatives SESSIONS and WAXMAN introduced the companion bill in the House of Representatives in August. It is a strongly bipartisan bill. There are 77 Senate cosponsors and 139 House cosponsors. This bill will make life easier for working American parents caring for a child with a severe disability.

Shortly after introducing this bill, I worked in a bipartisan way to secure a budget reserve fund in the budget resolution. Subsequently, the Senate Budget Committee convened a hearing on the bill. Then, in July, the President announced his support for the bill.

Logic would tell us that a bill with this kind of bipartisan support would stand a good chance of being approved by the Congress. Unfortunately, this bill is not among the final, end-of-year legislative packages. One likely explanation is that the families who would be helped by this bill do not have the same kind of political influence and clout that other powerful interest groups have. Working parents are not a powerful voice in Washington, even though they have every legitimate right to be a powerful voice in Washington.

Interestingly, today the bill was discussed on the House floor by a very powerful Member of the House of Representatives. The distinguished House Member was under the impression that the Family Opportunity Act is primarily a Democratic bill. In fact, the Family Opportunity Act has broad bipartisan support. In addition, it is based on strongly held Republican principles.

The Family Opportunity Act is, No. 1, pro-family, No. 2, pro-work, No. 3, pro-opportunity and, No. 4, pro-States rights.

Pro-family. When you are a parent, your main objective is to provide for your child to the best of your ability. Right now, our Federal Government takes this goal and turns it upside down for parents of children with special health care needs. In the worst cases, parents give up custody of their child with special health care needs or put their child in an out-of-home placement just to keep their child's access to Medicaid-covered services.

Pro-work. Federal policies today force these parents to choose between work and their children's health care. That is a terrible choice.

Many parents of children with disabilities refuse jobs, pay raises, and overtime just to preserve access to Medicaid for their child with disabilities. Thousands of families across the country are caught in this Catch-22.

Pro-opportunity. The Family Opportunity Act of 2000 was created to help parents have the opportunities they deserve. It does so by providing parents the opportunity to work without the fear of harming their children. Allowing parents to break free from constraints that force many of them to stay impoverished is a win-win. Parents who work are also taxpayers. That's good for the government and the economy. And, parents who work are better able to provide for their families. That's good for children.

Pro-States rights. Governor Huckabee from Arkansas said it best at the Senate Budget Committee hearing I chaired in July. He said:

> The Family Opportunity Act encourages progress for the family and places government on the side of the people where it should be. No child and no family should be the victim of a process which conspires against the very foundational principles on which we have existed for over 200 years. This Act will restore principled leadership from all of us as leaders who rightly see our roles as servants of the citizens, not the other way around.

I can't emphasize strongly enough how important a bill like the Family Opportunity Act is to working families across America. Everybody wants to use their talents to the fullest potential, and every parent wants to provide as much as possible for his or her children. The government shouldn't get in the way.

If this bill is allowed to die, that would be a missed opportunity of the highest level. I urge my colleagues to reconsider its status.

Winston Churchill once said:

> Never give in, never give in, never, never, never, never—in nothing, great or small, large or petty—never give in except to convictions of honor and good sense.

Legislation to help families help themselves make good sense.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. First of all, I thank Senator GRASSLEY. I very much appreciate his effort, with Senator KENNEDY. He does not give in, especially when it is a matter of principle to him. I thank him for his good work.

BANKRUPTCY REFORM ACT CONFERENCE REPORT

Mr. WELLSTONE. Mr. President, as of today, we are scheduled to have a cloture vote tomorrow. It is going to be on the bankruptcy conference report. One would think that in the final days of this Congress—of this Senate—we actually would be talking about debating and passing legislation that would promote the economic security of families in our country.

We could focus on health security for families. We could focus on raising the minimum wage. We could focus on affordable child care. We could focus on affordable housing. We could focus on reauthorizing the Elementary and Secondary Education Act. Thank God people in the country are so focused on a good education for their children or their grandchildren.

Instead, we are spending our final days debating an unjust and imbalanced bankruptcy bill which is entirely for the benefit of big banks and the credit card companies. In one way, I am very sad to say this piece of legislation is truly representative of the 106th Congress. It is an anti-consumer, give-away-to-big-business bill, in a Congress which has been dominated by special interest legislation. And it is representative of the 106th Congress in another way, too: It represents distorted priorities. We could be doing so much to enhance and support ordinary citizens in our country. Instead, we now have this legislation before us.

I want Senators to know, if they are watching, I will, as they come to the floor, interrupt my remarks so others can speak in opposition. We have a lot of ground to cover. We intend to cover that ground because this piece of legislation deserves scrutiny. It should be held up to the light of day so citizens in this country can see what an ill-made, mishandled attempt this piece of legislation is. Other Senators need to understand what bad legislation this is, how terrible its impact will be on America's most powerless families, and what a complete giveaway it is to banks, credit card companies, and other powerful interests.

This is a worse bill than the bill we voted on earlier in the Senate. It is important for colleagues to understand that not only is this a worse piece of legislation, we had a provision in the bill that passed the Senate—albeit a flawed bill—the Kohl amendment, which said that while we are punishing low- and moderate-income people, families that have gone under because of bankruptcy, in 40 percent or 50 percent of the cases because of medical bills, you certainly don't want to enable millionaires to basically buy million-dollar homes in several States and in that way shield themselves from any liability. That provision was taken out. That is reason enough for Senators to vote against this bill.

In addition, Senator SCHUMER had a provision that said, when people are breaking the law and blocking people from being able to go to family planning clinics, they should not be able to shield themselves from legal expenses and other expenses by not being held liable when it comes to bankruptcy. The Schumer provision was taken out.

If that is not enough for Senators, the way in which the majority leader has advanced this bill makes a mockery out of the legislative process. If we love this institution and we believe in an open, public, and accountable legislative and political process, then I don't see how we can support taking a State Department conference report—I call it the ''invasion of the body snatchers''—completely gutting that so there is not a word about the State Department any longer and, instead, putting in this bankruptcy bill, far worse than the bill passed by the Senate.

I see Senator DURBIN on the floor. I can conclude in 5 minutes, if he is here to speak on this.

I will summarize reasons for opposing this conference report and then come back a little later on and develop each of these arguments.

First, the legislation rests on faulty premises. The bill addresses a crisis that does not exist. Increased filings are being used as an excuse to harshly restrict bankruptcy protection, but the filings have actually fallen sharply in the last 2 years. Additionally, the bill is based on the myth that the stigma of bankruptcy has declined. Not true. I will develop that argument later on.

Second, abusive filers are a tiny minority. Bill proponents cite the need to curb ''abusive filings'' as a reason to harshly restrict bankruptcy protection, but the American Bankruptcy Institute found that only 3 percent of chapter 7 filers could have paid back more of their debt. Even bill supporters acknowledge that, at most, 10 to 13 percent of the filers are abusive.

Third, the conference report falls heaviest on those who are most vulnerable. The harsh restrictions in this legislation will make bankruptcy less protective, more complicated, and expensive to file. This will make it much more difficult for low- and moderate-income citizens to have any protection. Unfortunately, the means tests and safe harbor will not shield from the majority of these provisions and have been written in such a way that they will capture many debtors who truly have no ability to significantly pay off this debt and therefore will be in servitude for the rest of their lives.

Fourth of all, the bankruptcy code is a critical safety net for America's middle class. Low- and moderate-income families, especially single parent families, are those who are most in need to make a fresh start—the fresh start provided by bankruptcy protection. The bill will make it very difficult for these families to get out of crushing debt. Again, in 40 percent of the cases, these are families who have gone under because of a medical bill.

Fifth of all, the banking and credit card industry gets a free ride. The bill as drafted gives a free ride to banks and credit card companies that deserve much of the claim for the bankruptcy filings in the first place, and the lenders should not be rewarded for this reckless lending.

Sixth of all, this legislation actually might increase the number of bankruptcies and defaults. Several economists have suggested that restricting access to bankruptcy protection will actually increase the number of filings and defaults because banks and these credit card companies will be even more willing to lend money to marginal candidates.

Seventh of all, the conference report, again, is worse than the Senate bill. We had a very reasonable provision; It was the Kohl amendment, which said, if you are going to go after women, and go after working families, and go after low- and moderate-income people, and go after families who are in debt because of a medical bill that is putting them under, then at least make sure you are not going to have wealthy Americans who are going to be able to go to several States and buy homes worth millions of dollars and shield themselves from any liability. That provision is knocked out.

This is a worse bill than that passed in the Senate. The Schumer amendment, again, said if people are blocking people from family planning services, they have broken the law; they ought not to be able to shield expenses they incurred from liability when it comes to bankruptcy. The Schumer amendment was taken out.

Finally, I say this one more time. This is a larger issue than bankruptcy reform. It is a question of the fundamental integrity of the Senate as a legislative body. Not one provision of the original State Department authorization bill, aside from the bill number, remains part of this legislation. To replace in totality a piece of legislation with a wholly new and unrelated bill in conference takes the Congress one step closer to a virtual tricameral legislature—House, Senate, and conference committee. If you believe in the integrity of this legislative process, and if you believe we all ought to be in a position to be good legislators, you should vote against this cloture motion on those grounds alone.

I conclude this way. Other colleagues are on the floor. I will develop these arguments later on. At one point in time, the argument was suggested that only a tiny minority opposed this bill. Well, when I look at the opposition of labor unions, and I look at the opposition of every single consumer organization, and I look at the opposition from women and children's groups, and I look at the strong opposition from the civil rights community and a good part of the religious community, and when I see letters signed by bankruptcy professors, the academic community, judges, all the people who know this system well, who say this piece of legislation is egregious—it is one sided: it is imbalanced; it is unjust; it is too harsh—I realize that this piece of legislation should be stopped. I hope that tomorrow Senators, Democrats and Republicans, will oppose this on substantive grounds and also on the basis of the way in which this has been done. The way in which this has been done at the very end of this session is an affront to the integrity of this process. No Senator should vote for cloture who believes in an open, honest process with real integrity.

Before I launch into my first point, Mr. President, I'd like to observe that in July my friend from Iowa, the author of this bill, referred to the opposition to this bill as the ''radical fringe.'' Well, I'm pretty proud of the company I'm keeping no matter now dismissive my colleague. Because you know what? The labor unions all oppose this bill. The consumer groups all oppose this bill. The women and children's groups all oppose this bill. The civil rights groups all oppose this bill and the many members of the religious community oppose this bill. Indeed one of the broadest coalitions I have ever seen united together opposes this so-called bankruptcy reform.

I would say to my colleagues, you can tell a lot about a person—or a bill—by who its friends are. But you can also tell a lot about a bill by who its enemies are. The radical fringe? I see millions of working families who have nothing to gain and everything to lose under this legislation.

Now, Mr. President, you have to give the proponents of this bill credit for chutzpah: They still preach the urgent need for this legislation despite the fact that nearly all the evidence points to the contrary. In fact, in the months since the Senate passed bankruptcy reform, any pretense of necessity has evaporated. The number of bankruptcies has fallen steadily over the past year, charge offs on credit card debt are down significantly and delinquencies have fallen to the lowest levels since 1995. Now proponents and opponents agree that nearly all debtors resort to bankruptcy not to game the system but rather as a desperate measure of economic survival and that only a tiny minority of chapter 7 filers—as few as 3 percent—could afford any debt repayment.

And I have to congratulate my friends on another point, because they had almost convinced the Congress and the American public to view bankruptcy as a giant loophole for scam artists instead of a safety net. A key part of this argument is the belief—wholly unsubstantiated as far as any objective observer call tell—that the high number of bankruptcies in the 1990's is a result of a decline in the stigma of bankruptcy. In fact, my friend from Iowa said in July that ''With high numbers of bankruptcies occurring at a time when Americans are earning more, the only logical conclusion is that some people are using bankruptcy as a way out.''

With all due respect, while that has been a common assertion on the part of the bill's proponents that's all it is: an assertion. Virtually nothing backs it up. Indeed it's an assertion that flies in the face of all evidence that bankruptcy remains a deeply embarrassing, difficult and humbling experience for the vast majority of the people who file. I think my colleagues should actually talk to some folks who have filed for bankruptcy. Ask them how it felt to tell their friends and family about what they had to do, ask them how it felt to let down lenders to whom they owed money. Ask them how they felt about telling their employer.

In fact, it's a shame that when a group of my colleagues and I hosted some of the debtors profiled in Time magazine expose of this legislation—

''Soaked by Congress''—the bill's proponents attacked the credibility of the Time article but didn't bother to visit with Charles and Lisa Trapp, or Patricia Blake, or Diana Murray all who came to Washington to explain—from the perspective of people who have been there—what it's like to file for bankruptcy and why they were driven by that extreme.

A review of the academic papers on bankruptcy suggests that the evidence for a decline in the stigma of bankruptcy is slim. This was the conclusion of a September 2000 Congressional Budget Office report entitled ''Personal Bankruptcy: A Literature Review.'' In fact, CBO found some objective evidence that argues that the stigma of bankruptcy is a strong deterrent to filing noting a study that showed that while 18 percent of U.S. households could benefit from filing for bankruptcy, only 0.7 percent did—suggesting that stigma might hold some back.

In the book, ''the Fragile Middle Class'' by Theresa Sullivan, Elizabeth Warren and Jay Westerbrook—all academic bankruptcy experts—the authors argue that the stigma remains:

> Bankruptcy is, in many ways, where middle class values crash into middle class fears. Bankruptcy debtors are unlikely either to feel in charge of their destiny or to feel confident about planning their future. Discharging debts that were honestly incurred seems the antithesis of middle-class morality. Public identification as a bankruptcy debtor is embarrassing at best, devastating at worst. It is certainly not respectable, even in a country with large numbers of bankruptcies, to be bankrupt. Bankruptcy debtors have told us of their efforts to conceal their bankruptcy. Arguments that the stigma attached to bankruptcy has declined are typically made by journalists who are unable to find any bankrupt debtors willing to be interviewed for the record and by prosperous economists who see bankruptcy as a great bargain.

Of course the stigma argument isn't new. As early as the 1920's then Solicitor General of the United States Thomas Thacher argued that Americans were all too comfortable with filing for bankruptcy. Indeed, as David Moss notes in a 1999 American Bankruptcy Law Journal article, quote: ''those who today worry about declining stigma might be surprised to learn that the stigma associated with bankruptcy had, according to some observers, already disappeared by 1967.''

Of course there are other very logical explanations of why the filing rate in the 90's is quite high—they just aren't as convenient for the big banks and credit card industry.

Mr. President, we know why people file for bankruptcy. Bankruptcy is the only solution for families who find their debt and the interest on their debt outstrips their income. The question is, why do families find themselves in those circumstances? And when they do, what do we as a society do to keep those families solvent. Or if we don't help them to remain solvent, how do we at least let them pick up the pieces, get on with their lives, reenter productive society.

That's what this debate is about. That's exactly what's at stake in this debate; the solvency of the middle class.

But, Mr. President, one not-so-small footnote that overshadows this whole debate is the fact that the number of bankruptcy filings have been dropping like a stone for the past 2 years. My colleagues are driving this heartless bill with talk of a bankruptcy ''crisis,'' a dramatic increase in the number of filings, but with all due respect they are trying to scare us with yesterday's ghosts. A study released on September 8 of last year by Professor Lawrence Ausubel of the University of Maryland notes that the peak increase in bankruptcy filings came and went in 1996. In fact, filings in 1998 were barely an increase over 1997 and we now know that there were 112,000 fewer bankruptcies in 1999 that there were in 1998—a nearly 10 percent decline. And the numbers so far have continued the sharp decline in 2000.

We're being led to believe that it's the high number of bankrupts that are driving this legislation. And do you know what? They are, but for the wrong reasons. The credit card companies are counting on the United States Senate to overreact to the number of bankruptcies, they are counting on you to ignore their complicity in the huge debt burdens on most American families, the financial services industry is counting on the Congress to overlook the evidence that the bankruptcy crisis is self correcting. The problem may be abating, but they still want the fix to pad their profits. The high number of people filing for bankruptcy—most of whom have terrible circumstances that force them to do so—are an excuse, not a justification.

Still, regardless of how many people file or why they file, my colleagues continue to maintain that this bill is driven by necessity. To do this they would track more debtors into chapter 13 instead of chapter 7 through the use of a means test. But again, their goal flies in the face of the evidence. First of all, we know through independent studies of those who file for bankruptcy that only about 3 percent of all debtors who file for chapter 7 could afford to pay any of their debts and that in 95 percent of chapter 7 filings there were no meaningful assets to be liquidated to pay back creditors. This is in line with other evidence that nearly all debtors file for bankruptcy do so because of some sudden, drastic economic disruption which it often takes years to recover from.

Bankruptcy does not occur in vacuum. We know that in the vast majority of cases it is a drastic step taken by families in desperate financial circumstances and overburdened by debt. The main income earner may have lost his or her job. There may be sudden illness or a terrible accident requiring medical care. Certainly most Americans have faced a time in their lives where they weren't sure where the next mortgage payment or credit card payment was going to come from, but somehow they scrape by month to month. Still, such families are on the edge of a precipice and any new expense—a severely sick child, a car repair bill—could send a family into financial ruin. Despite the current economic expansion there are far too many working families in this situation. That is the true story behind the high number of bankruptcy filings in recent years and I want to make clear to my colleagues that the evidence shows that the very banks and credit card companies who are pushing this bill have a lot to do with why working families are in this predicament today.

The bankruptcy system is supposed to allow a person to climb back up after they've hit bottom, to have a fresh start. There is no point to continue to punish a person and a family once their resources are over matched by debt. The bankruptcy system allows families to regroup, to focus resources on essentials like their home, transportation and meeting the needs of dependents. Sometimes the only way this can occur is to allow the debtor to be forgiven of some debt, and in most cases this is debt that would never be repaid because of the debtor's financial circumstances.

The sponsors of this measure and the megabucks and credit card companies behind this bill don't like to focus on those situations. They paint a picture of profligate abuse of the bankruptcy system by irresponsible debtors who could pay their debt but simply choose not to. Such people do take advantage of the system, there is no question. But this bill casts a wider net and catches more than just the bankruptcy ''abusers.''

Again, a study done last year by the American Bankruptcy Institute found that only 3 percent of debtors who file under chapter 7—where debtors liquidate assets to repay some debt while the rest of the debtor's unsecured debt is forgiven—would actually have been able to pay more of their debt than they are required to under chapter 7. Even the U.S. Justice Department found that the number of abusive claims was somewhere between 3–13 percent. This means that the number of people filing abusive bankruptcy claims is astonishingly low. But this legislation seeks to channel many more debtors into chapter 13 bankruptcy—where the debtor enters a 3–5 year repayment plan and very little debt is forgiven. Yet in the pursuit of the few, this bill imposes onerous conditions, and ridiculous standards on all bankrupts alike. Additionally, under current law, 67 percent of the debtors in chapter 13 fail to complete their repayment plan often because they did not get enough relief from loans, and because economic difficulties continued. So this legislation would take individuals, the majority of whom desperately need a true fresh start, and

force them into a bankruptcy process which two-thirds of debtors already fail to complete successfully. And my colleagues call this reform?

And yet when given the opportunity to target real, proven abuses by wealthy deadbeats and scofflaws, the sponsors took a pass. Again, Mr. President, the very small number of abusive filers are an excuse not a justification for this bill that falls most heavily on those most in need of fresh start relief. This conference report does not match it's rhetoric.

HOW THE BILL HARMS THE VULNERABLE

Mr. President, I want to take some time to talk about the effect this bill will have on low- and middle-class debtors. Remember, nearly all debtors file for bankruptcy are not wealthy scofflaws, but rather are people in desperate economic circumstances who file as a last resort to try and rebuild their finances, and, in many cases, end harassment by their creditors. And in particular I want to remind my colleagues of the May 15, 2000, issue of Time magazine whose cover story on this so-called bankruptcy reform legislation was entitled ''Soaked by Congress.''

The article, written by reporters Dan Bartlett and Jim Steele, is a detailed look at the true picture of who files for bankruptcy in America. You will find it far different from the skewed version being used to justify this legislation. The article carefully documents how low and middle income families—increasingly households headed by single women—will be denied the opportunity of a fresh start if this punitive legislation is enacted. As Brady Williamson, the chairman of the National Bankruptcy Review Commission, notes in the article, the bankruptcy bill would condemn many working families to ''what essentially is a life term in debtor's prison.''

Now proponents of this legislation has tried to refute the Time magazine article. Indeed during these final days of debate you will hear the bill's supporters claim that low and moderate income debtors will be unaffected by this legislation. But colleagues, if you listen carefully to their statements you will hear that they only claim that such debtors will not be affected by the bill's means tests. Not only is that claim demonstratably false—the means test and the safe harbor have been written in a way that will capture many working families who are filing for chapter 7 relief in good faith—but it ignores the vast majority of this legislation which will impose needless hurdles and punitive costs on all families who file for bankruptcy regardless of their income. Nor does the safe harbor apply to any of these provisions.

Now, you might ask why the Congress has chosen to come down so hard on ordinary working folk down on their luck. How is it that this bill is so skewed against their interest and in favor of big banks and credit card companies? Well, maybe that's because these families don't have million dollar lobbyists representing them before Congress. They don't give hundreds of thousands of dollars in soft money to the Democratic and Republican parties. They don't spend their days hanging outside the Senate Chamber waiting to bend a members ear. Unfortunately it looks like the industry got to us first.

They may have lost a job, they may be struggling with a divorce, maybe there are unexpected medical bills. But you know what? They're busy trying to turn their lives around. And I think it's shameful that at the same time this story is unfolding for a million families across America, Congress is poised to make it harder for them to turn it around. Who do we represent?

So Mr. President, I'd like to take a few minutes to explain exactly what the effects of this bill will be on real life debtors—the folks profiled in the Time article. I hope the authors of the bill will come to the floor to debate on these points. There could be the opportunity for some real discussion on an issue that has yet to be addressed by the bill's supporters. Specifically, I challenge them to come to the floor and explain to their colleagues how making bankruptcy relief harder and much more costly to achieve will benefit working families.

CHARLES AND LINDA TRAPP

Charles and Linda Trapp were forced into bankruptcy by medical problems. Their daughter's medical treatment left them with medical debts well over $100,000, as well as a number of credit card debts. Because of her daughter's degenerative condition, Ms. Trapp had to leave her job as a letter carrier about 2 months before the bankruptcy case was filed to manage her daughter's care. Before she left her job, the family's annual income was about $83,000, or about $6,900 per month, so under the bill, close to that amount, about $6,200, the average monthly income for the previous 6 months, would be deemed to be their current monthly income, even though their gross monthly income at the time of filing was only $4,800. Based on this fictitious deemed income, the Trapps would have been presumed to be abusing the Bankruptcy Code, since their allowed expenses under the IRS guidelines and secured debt payments amounted to $5,339. The difference of about $850 per month would have been deemed available to pay unsecured debts and was over the $167 per month triggering a presumption of abuse. The Trapps would have had to submit detailed documentation to rebut this presumption, trying to show that their income should be adjusted downward because of special circumstances and that there was no reasonable alternative to Ms. Trapp leaving her job.

Because their current monthly income, although fictitious, was over the median income, the family would have been subject to motions for abuse filed by creditors, who might argue that Ms. Trapp should not have left her job, and that the Trapps should have tried to pay their debts in chapter 13. They also would not have been protected by the safe harbor. The Trapps would have had to pay their attorney to defend such motions and if they could not have afforded the thousand dollars or more that this would have cost, their case would have been dismissed and they would have received no bankruptcy relief. If they prevailed on the motion, it is very unlikely they could recover attorney's fees from a creditor who brought the motion, since recovery of fees is permitted only if the creditor's motion was frivolous and could not arguably be supported by any reasonable interpretation of the law (a much weaker standard than the original Senate bill). Because the means test is so vague and ambiguous, any creditor could argue that it was simply making a good faith attempt to apply the means test, which after all created a presumption of abuse.

Of course, young Annelise Trapp's medical problems continue and are only getting worse. Under current law, if the Trapps again amass medical and other debts they can't pay, they could seek refuge in chapter 13, where they would be required to pay all that they could afford. Under the new bill, the Trapps could not file a chapter 13 case for five years. Even then, their payments would be determined by the IRS expense standards and they would have to stay in their plan for 5 years, rather than the 3 years required to current law. The time for filing a new chapter 7 would also be increased by the bill from 6 years to 8 years.

LUCY GARCIA

Lucy Garcia was on the verge of eviction from her apartment when she went to her bankruptcy attorney. As described in Time, after she separated from her husband, it was difficult to make ends meet and she fell behind on her rent. When she filed her bankruptcy case, the automatic stay prevented her eviction temporarily. In that time, she received her tax refund and was able to catch up in her rent and thus prevent the eviction. Under the bill now before the Senate, Ms. Garcia and her two children would have become homeless, because there would have been no automatic stay of their eviction.

Depending on how the means test is interpreted (and there are numerous ambiguities that will lead to widespread litigation that most consumer debtors cannot afford), Ms. Garcia might not even be allowed to file a chapter 7 case under the bill. For food, clothing, housekeeping supplies, personal care items and services, and miscellaneous she would be allowed to spend $863 per month and she actually spends $1,191. The deemed surplus of $328 multiplied by 60 is more than $6,000 and more than 25 percent of her debt and therefore her case could be deemed an abuse of chapter 7.

The IRS budget used by the means test only allows $4.93 a day for food per

person. No one could properly feed a child for $4.93, a day let alone an adult, especially in New York City where Ms. Garcia lives. The food budget for three people like Lucy's family with gross income of $2,600 a month is $444 per month according to the IRS website. The amount allowed for food for lower income families is even less, as low as $3.02 a day per person. under the bill, the trustees in all cases will be required to use the means test even if the debtor's income is under the national median as in this case. (Apparently, the credit industry is trying to confuse Senators by confusing two different sections of the bill. Credit card lobbyists mislead by telling Senators the means test does not apply if the income is below the median income in a case like Ms. Garcia's. This is false. The language of the bill says creditors cannot challenge cases if the income is below the median, but under the section about trustee duties the trustee must apply the means test whether the creditor challenges the case or not.)

Ms. Garcia barely had the money to pay her attorney when she filed her bankruptcy case. She still barely has enough to meet expenses. She certainly would not have had the funds to defend against a motion filed under the means test. She would not have been able to afford the additional filing fees in the bill, combined with the additional attorney's fees that the bill will cause due to the substantial additional paperwork requirements.

Because she did not have all of the bills she had received in the last 90 days before bankruptcy, her attorney would have had to spend significant time trying to determine the addresses at which creditors might ''wish to receive correspondence'' as required by the bill, and might not have been able to give notice to some creditors that would be deemed ''effective'' under the bill. These creditors would then be free to continue to harass Ms. Garcia even after she filed her bankruptcy petition.

Ms. Garcia would also have been required to give up her television in which Sears claimed a security interest, since there was no room in her budget for payments to redeem (with payment of the retail value required by the bill) or reaffirm the debt. With two children, ages 6 and 9, loss of her television would have been a real hardship.

ALLEN SMITH

Allen Smith is a resident of Delaware, which has no homestead exemption. In other words, he cannot shield his home from his creditors. Ironically, under this bill, wealthy scofflaws can shield multimillion dollar mansions from their creditors with a little planning, but not Mr. Smith. As a result when the tragic medical problems described in the Time article befell his family, he could not file a chapter 7 case without losing his home. Instead he filed a chapter 13 case, which required substantial payments in addition to his regular mortgage payments for him to save his home. Ultimately, after his wife passed away and he himself was hospitalized he was unable to make all these payments and his chapter 13 plan failed. Had Delaware had a reasonable homestead exemption, and had Mr. Smith been able to simply file a chapter 7 case to eliminate his other debts, he might have been able to save his home.

Mr. Smith's financial deterioration was caused by unavoidable medical problems. Before he thought about bankruptcy he went to consumer credit counseling to try to deal with his debts. However, it appears that he went to consumer credit counseling just over 180 days before the case was filed, and he did not receive a briefing, so the new bill would have required him to go again. This would have been very difficult, considering his medical problems. In fact, his attorney, demonstrating dedication to clients that sharply contrasts with the creditor propaganda picture of bankruptcy lawyers just out to make a buck, made several home visits to Mr. Smith and his wife, who was a double amputee.

The new bill would also have required a great deal of additional time and expense for Mr. Smith and his attorney, through new paperwork requirements and a requirement that he attend a credit education course. Such a course would have done nothing to prevent the enormous medical problems suffered by Mr. Smith and his wife. He did not get in financial trouble through failure to manage his money. He is 73 years old and had never before had debt problems. The bill makes no exceptions for people who cannot attend the course due to exigent circumstances, so Mr. Smith might never have been able to get any relief in bankruptcy under the new law.

Under the new bill, Mr. Smith would also have had to give up his television and VCR to Sears, which claimed a security interest in the items. Under the bill, he would not be permitted to retain possession of these items in chapter 7 unless he reaffirms the debt or redeemed the items. Sears may demand reaffirmation of its entire $3,000 debt under the bill, and to redeem Mr. Smith would have to pay their retail value. After his wife died and her income was gone, Mr. Smith did not have the money to pay these amounts to Sears. Since he is largely homebound, loss of these items would have been devastating.

Sadly, Mr. Smith's medical problems continue. Under current law, if he again amasses medical and other debts he can't pay, he could seek refuge in chapter 13, where he would be required to pay all that he can afford. Under the new bill, Mr, Smith cannot file a chapter 13 case for 5 years (until he is 78 years old). The time for filing a new chapter 7 has also been increased, from 6 years to 8 years.

MAXEAN BOWEN

Maxean Bowen's case shows how every single bankruptcy debtor would be impacted by the bill. She didn't have the money to pay her bankruptcy attorney and had to get it from relatives. With the increased costs for paperwork, obtaining tax records and taking a credit education course, it is not clear that Ms. Bowen would even have been able to afford bankruptcy relief. Her debt problems stemmed from a disability that caused her to be unable to work at her job, reducing her income to $800 per month for herself and her 11-year-old daughter. Thus, her situation was not a result of mismanaging her credit, and a credit education course would not have prevented it. Nonetheless, unless she could find the money to pay for such a course, she could get no bankruptcy relief under the bill.

CHAPTER 13 MADE UNWORKABLE

Mr. President, I want to talk for a moment about cross purposes in this bankruptcy measure because it highlights a fundamental reality about this legislation: it has become larded up with special interest provisions which not only hurt middle class consumers but also completely undermine the ostensible purpose of the legislation: to track more debtors into chapter 13 where they repay their creditors.

Now, again, to repeat what I've stated earlier, I think this is a questionable premise to begin with. After all, under current law—where debtors are allowed to choose which chapter of the code to file under—67 percent of the debtors in chapter 13 fail to complete their repayment plan often because they did not get enough relief from loans, and because economic difficulties continued. So this legislation would take individuals, the majority of whom desperately need a true ''fresh star'', and force them into a bankruptcy process which ⅔ of debtors already fail to complete successfully. And this is what my colleagues call reform.

But I say to my colleagues, this legislation will make chapter 13 unworkable for many more debtors and will likely reduce the number of chapter 13 cases. In fact, the U.S. Trustees have estimated that one piece of this bill alone—the restriction on ''cramdown'' will reduce the number of chapter 13 cases by 20 percent.

How would this happen? Well, ''cramdown'' refers to how certain secured debt—like an auto loan—is valued during bankruptcy. Remember, secured debt is made up of loans that are attached to some physical property the lender can repossess, such as a car. Under current law, if a debtors owes more on a car than it is worth, the amount she must repay to keep her car is equal to the current value of the car not the amount of the loan left unpaid. This is fair to the lender because it ensures that the lender gets repaid the same amount that it would get if it repossessed and sold the vehicle. The rest of the loan doesn't just go away, but it gets classified as unsecured debt—like credit card debt—which is less likely to be repaid.

But under this conference agreement, the debtor must pay back the full value of the loan to keep her car. This will force debtors to pay more debt in chapter 13 cases, will cause more chapter 13 debtors to lose their cars—and jeopardize their ability to get to their job. Does it make sense to make chapter 13 harder to complete if ⅔ of the cases fail already? In addition, the ability to cramdown debt is one of the major attractions of filing under chapter 13, so the effect of this provision of the bill will be to discourage debtors from filing chapter 13—the exact opposite of the supposed purpose of the bill.

But wait, the authors didn't stop there at making chapter 13 harder. This bill will require many more debtors to file 5-year chapter 13 plans instead of 3-year plans. This extends the time in which debtors must have steady income and increases the amount of debt they must pay—significant and unworkable requirements for chapter 13 relief. This conference report will also force chapter 13 debtors to abide by strict IRS standards of ''disposable income'' which can disallow abnormally high housing or transportation costs.

Mr. President, all of these provisions will make chapter 13 less attractive and harder to complete. As I said, the U.S. Trustees believe that the cramdown provisions alone will lower the number of chapter 13 cases by 20 percent. But the added impact of these other hurdles could well make chapter 13 cases impossible to complete for many debtors. Remember, 67 percent already fail to complete such plans.

All of this raises a fundamental question for the supporters of this legislation: If you want more debtors to pay more of their debt back, why are you making it harder for them to do so? The reality, Mr. President is that between the means test barring relief under chapter 7 and the new restrictions and burdens making chapter 13 less workable, the legislation may well force thousands of debtors from gaining any relief under either chapter of the code. Such debtors will find themselves in bankruptcy purgatory—they will have to either lower their income (or borrow more money) so that they can qualify for chapter 7 or be denied a fresh start altogether and be left at the mercy of their creditors. Many such people might very well have filed chapter 13 cases under current law.

But don't just take my word for it colleagues. In a July 12 ''Dear Colleague'' letter the author of the Senate bill admits that. The attachment to the letter states: ''the proposed bills will result in fewer chapter 13s.'' What does all of this add up to, Mr. President? Exactly this: on one hand, you have the bill's supporters claiming that this will cause more debtors to file under chapter 13 and result in greater repayment of creditors, and on the other you have a letter from the author of the legislation saying precisely the opposite.

I say to my colleagues, this cuts to the heart of this entire debate. I hope the banks and credit unions that have been tricked into supporting this legislation ask some hard questions of their lobbyists here in Washington: why are you asking me to support this bill when it will result in fewer chapter 13 repayment plans that allow me to collect what I'm rightfully owed? Indeed the chief economist of the Credit Union National Association, Bill Hampel, now believes that the proposed changes to the Bankruptcy Code will not result in increased loan recoveries for credit unions.

Where are the savings to consumers in this bill, Mr. President? Supporters are running around claiming billions in dollars will be saved under this bill. Well, if fewer people are filing for chapter 13, and those that do file will be more likely to drop out, where are the savings? I hope the sponsors come to the floor to answer this question.

I think there could be two answers Mr. President. The first answer is that there will be no increased repayments under this bill. That there will be no lowering of the cost of credit for consumers.

But the second answer is even more troubling, because I think the truth is, Mr. President, that the only way this bill could result in increased payments to creditors is that it will deny many debtors from filing for bankruptcy altogether. Fresh starts will be too costly and prohibitively difficult for many under this bill so lives will be ruined, wages will be garnished, homes will be lost, and cars will be repossessed. I mean we all know there aren't many assets out there to be seized, but I guess the theory is that if you squeeze enough stones you will eventually get some blood. But the cost will be increased misery, the cost will be more economic devastation for those who are already devastated.

BANKRUPTCY IS A SAFETY NET FOR THE MIDDLE CLASS

The proponents of this bill argue that people file because they want to get out of their obligations, because they're untrustworthy, because they're dishonest, because there is no stigma in filing for bankruptcy.

But any look at the data tells you otherwise. We know that in the vast majority of cases it is a drastic step taken by families in desperate financial circumstances and overburdened by debt. The main income earner may have lost his or her job. There may be sudden illness or a terrible accident requiring medical care.

Specifically we know that nearly half of all debtors report that high medical costs forced them into bankruptcy—this is an especially serious problem for the elderly. But when you think about it, a medical crisis can be a double financial whammy for any family. First there are the high costs associated with treatment of serious health problem. Costs that may not be fully covered by insurance, and certainly the over 30 million Americans without health insurance are especially vulnerable. But a serious accident or illness may disable—at least for a time—the primary wage earner in the household. Even if it isn't the person who draws the income, a parent may have to take significant time to care for a sick or disabled child. Or a son or daughter may need to care for an elderly parent. This means a loss in income. It means more debt and the inability to pay that debt.

Are people overwhelmed with medical debt or sidelines by an illness, deadbeats? This bill assumes they are. For example, it would force them into credit counseling before they could file—as if a serious illness or disability is something that can be counseled away.

Women single filers are now the largest group in bankruptcy, and are one third of all filers. They are also the fastest growing. Since 1981, the number of women filing alone increased by more than 700 percent. A woman single parent has a 500 percent greater likelihood of filing for bankruptcy than the population generally. Single women with children often earn far less than single men aside for the difficulties and costs of raising children alone. Divorce is also a major factor in bankruptcy. Income drops, women, again, are especially hard hit. They may not have worked prior to the divorce, and now have custody of the children.

Are single women with children deadbeats? This bill assumes they are. The new nondischargeability of credit card debt will hit hard those women who use the cards to tide them over after a divorce until their income stabilizes. And the safe harbor in the conference report which proponents argue will shield low and moderate income debtors from the means test will not benefit many single mothers who need help the most because it is based on the combined income of the debtor and the debtor's spouse, even if they are separated, the spouse is not filing for bankruptcy, and the spouse is providing no support for the debtor and her children. In other words, a single mother who is being deprived of needed support from a well-off spouse is further harmed by this bill, which will deem the full income of that spouse available to pay debts for determination of whether the safe harbor and means test applies.

Mr. President, you will hear my colleagues talk about high economic growth and low unemployment and wonder how so many people could be in circumstances that would require them to file for bankruptcy. Well, the rosy statistics mask what has been modest real wage growth at the same time the debt burden on many families has skyrocketed. At it also masks what has been real pain as certain industries and certain communities as the economies restructure. Even temporary job loss may be enough to overwhelm a family that carries significant loans and often the reality is that a new job may be at

a lower wage level—making a previously manageable debt burden unworkable.

So what does this bill do to keep people who undergo these wrenching experiences out of bankruptcy? Nothing. Zero. Tough luck. In stead, this conference report just makes the fresh start of bankruptcy harder to achieve. But this doesn't change anyone circumstances, this doesn't change the fact that these folks no longer earn enough to sustain their debt. Mr. President, there is not one thing in this so called bankruptcy reform bill that would promote economic security in working families. It is sham reform.

When you push the rhetoric aside, one thing becomes clear: The bankruptcy system is a critical safety net for working families in this country. It is a difficult demoralizing process, but for nearly all who decided to file, it means the difference between a financial disaster being temporary or permanent. The repercussions of tearing that safety net asunder will be tremendous, but the authors of the bill remain deaf to the chorus of protest and indignation that is beginning to swell as ordinary Americans and Members of Congress begin to understand that bankrupt Americans are much like themselves—are exactly like themselves—and that they are only one layoff, one medical bill, one predatory loan away from joining the ranks.

For the debtor and his family the benefit of bankruptcy—despite the embarrassment, despite the humiliation of acknowledging financial failure—is obvious, to get out from crushing debt, to be able to once again attempt to live within ones means, to concentrate ones income on clear priorities such as food, housing and transportation. But it is also the fundamental principles of a just society to ensure that financial mistakes or unexpected circumstances do not mean banishment forever from productive society.

Mr. President, the fresh start that is under attack here in the Senate today is nothing less than a critical safety net that protects America's working families. As Sullivan Warren and Westbrook put it in ''The Fragile Middle Class'':

> Bankruptcy is a handhold for middle class debtors on the way down. These families have suffered economic dislocation, but the ones that file for bankruptcy have not given up. They have not uprooted their families and drifted from town to town in search of work. They have not gone to the underground economy, working for cash and saying off the books. Instead, these are middle class people fighting to stay where they are, trying to find a way to cope with their declining economic fortunes. Most have come to realize that their incomes will never be the same as they once were. As their comments show, they realize they can live on $30,000 or $20,000 or even $10,000. But they cannot do that and meet the obligations that they ran up while they were making much more. When put to a choice between paying credit card debt and mortgage debt, between dealing with a dunning notice from Sears and putting groceries on the table, they will go to the bankruptcy courts, declare themselves failures, and save their future income for their mortgage and their groceries.

I say to my colleagues, there may be many different standards that different members have for bringing legislation to the floor of the United States Senate. We come from different backgrounds, we come from different states, we have different philosophies about the role of government in society. We have differing priorities. But for God's sake, there should be one principle that all of us can get behind and that is that we should do no harm here in our work to America's working families.

That's what at stake here. This is a debate about priorities. This is a debate about what side you're on. This is a debate about who you stand with. Will you stand with the big banks and the credit card companies or will you stand with working families, with seniors, with single women with children, with African-Americans and Hispanics.

But I would say to my colleagues on the floor of the U.S. Senate today that this is not a debate about winners and losers. Because we all lose if we erode the middle class in this country. We all lose if we take away some of the critical underpinnings that shore up our working families. Sure, in the short run big banks and credit card companies may pad their profits, but in the long run our families will be less secure, our entrepreneurs will become more risk adverse and less entrepreneurial.

How so? Well this is how a Georgia Congressman described the issue in 1841:

> Many of those who become a victim to the reverses are among the most high-spirited and liberal-minded men of the country—men who build up your cities, sustain your benevolent institutions, open up new avenues to trade, and pour into channels before unfilled the tide of capital.

Mr. President, this is still true today.

This isn't a debate about reducing the high number of bankruptcies. No way will this legislation do that. Indeed, by rewarding the reckless lending that got us here in the first place we will see more consumers over burdened with debt.

No, this is a debate about punishing failure. Whether self inflicted or uncontrolled and unexpected. This is a debate about punishing failure. And if there is one thing that this country has learned, punishing failure doesn't work. You need to correct mistakes, prevent abuse. But you also lead to lift people up when they've stumbled, not beat them down.

Of course, what the Congress is poised to do here with this bill is even worse within the context of this Congress. This is a Congress that has failed to address skyrocketing drug costs for seniors, this is a Congress that has failed to enact a Patients' Bill of Rights much less give all Americans access to affordable health care. This is a Congress that does not invest in education, that does not invest in affordable child care. This is a Congress that has yet to raise the minimum wage.

But instead, we declare war on America's working families with this bill.

What is clear is that this bill will be the death of a thousand cuts for all debtors regardless of whether the means test applies. There are numerous provisions in the bankruptcy reform bill designed to raise the cost of bankruptcy, to delay its protection, to reduce the opportunity for a fresh start. But rather than falling the heaviest on the supposed rash of wealthy abusers of the code, they will fall hardest on low- and middle-income families who desperately need the safety net of bankruptcy.

LENDERS SHOULD BE HELD RESPONSIBLE

You know, a lot of folks must be watching the progress of this bankruptcy bill over the course of this year with awe and envy. Can my colleagues name one other bill that the leadership has worked so hard and with such determination to move by any and all means necessary? Certainly not an increase in the minimum wage. Certainly not a meaningful prescription drug benefit for seniors, certainly not the reauthorization of the Elementary and Secondary Education Act. On many issues, on most issues, this has been a do nothing Congress. But on so-called bankruptcy reform, the Senate and House leadership can't seem to do enough.

One can only wonder what we could have accomplished for working families if the leadership had the same determination on other issues.

Unfortunately those other issues did have the financial services industry behind it. And you have to give them credit—no pun intended—over the past couple of years they have played the Congress like a violin. And what do you know, here we are trying to ram through this bankruptcy bill in the 11th hour as the 106th Congress draws to a close.

In reading the consumer credit industry's propaganda you'd think the story of bankruptcy in America is one of large numbers of irresponsible, high income borrowers and their conniving attorney using the law to take advantage of naive and overly trusting lenders.

As it turns out, that picture of debtors is almost completely inaccurate. The number of bankruptcies has fallen steadily over the past months, charge offs (defaults on credit cards) are down and delinquencies have fallen to the lowest levels since 1995, and now all sides agree that nearly all debtors resort to bankruptcy not to game the system but rather as a desperate measure of economic survival.

It also turns out that the innocence of lenders in the admittedly still high numbers of bankruptcies has also been—to be charitable—overstated.

As high cost debt, credit cards, retail charge cards, and financing plans for consumer goods have skyrocketed in recent years, so have the number of bankruptcy filings. As the consumer credit industry has begun to aggressively court the poor and the vulnerable, bankruptcies have risen. Credit

card companies brazenly dangle literally billions of card offers to high debt families every year. They encourage card holders to make low payments toward their card balances, guaranteeing that a few hundred dollars in clothing or food will take years to pay off. The lengths that companies go to keep their customers in debt is ridiculous.

So Mr. President, in the interest of full disclosure—something that the industry itself isn't very good at—I'd like my colleagues to be aware of what the consumer credit industry is practicing even as it preaches the sermon of responsible borrowing. After all, debt involves a borrower and a lender; poor choices or irresponsible behavior by either party can make the transaction go sour.

So how responsible has the industry been? Well I suppose that it depends on how you look at it. On the one hand, consumer lending is terrifically profitable, with high-cost credit card lending the most profitable of all (except perhaps for even higher costs credit like payday loans). So I guess by the standard of responsibility to the bottom line they've done a good job.

On the other hand if you define responsibility as promoting fiscal health among families, educating on judicious use of credit, ensuring that borrowers do not go beyond their means, then it's hard to imagine how the financial services industry could be bigger dead beats.

According to the Office of the Comptroller of Currency, the amount of revolving credit outstanding—that is, the amount of open-ended credit (like credit cards) being extended—increased seven times during 1980 and 1995. And between 1993 and 1997, during the sharpest increases in the bankruptcy filings, the amount of credit card debt doubled. Doesn't sound like lenders were too concerned about the high number of bankruptcies—at least it didn't stop them from pushing high-cost credit like Halloween candy.

Indeed, what do credit card companies do in response to ''danger signals'' from a customer that they may be in over their head. According to ''The Fragile Middle Class,'' an in depth study of who files for bankruptcy and why, the company's reaction isn't what you'd think.

> Many credit card issuers respond to a customer who is exceeding his or her credit limit by charging a fee—and raising their credit limit. The practice of charging default rates of interest, which often run into the 20 to 30 percent range, makes customers who give the clearest signs of trouble—missing payments—among the most profitable for the issuers.

That may sound stupid to you and me colleagues, but it gets more bizarre: Banks actively solicit debtors for new credit after they file for bankruptcy—this way, the company knows this customer will take on debt, but will not be legally able to seek another bankruptcy discharge for another 6 years.

As ''The Fragile Middle Class'' goes on to state:

> [Many] attribute the sharp rise in consumer debt—and the corresponding rise in consumer bankruptcy—to lowered credit standards, with credit card issuers aggressively pursuing families already carrying extraordinary debt burdens on incomes too low to make more than minimum repayments. The extraordinary profitability of consumer debt repaid over time has attracted lenders to the increasingly high-risk-high-profit business of consumer lending in a saturated market, making the link between the rise in credit card debt and the rise in consumer bankruptcy unmistakable.

So in other words colleagues, those folks who may have come into your office this year or last year talking about how they needed protection from customers walked away from debts, who thought Congress should mandate credit counseling—to promote responsible money management—as a requirement for seeking bankruptcy protection, who argued that reform of the bankruptcy code is needed because of decline in the stigma of bankruptcy have been pouring gasoline on the flames the whole time. Of course, in the end, if his bill passes, it's working families who get burned.

But guess what? It gets even worse, because the consumer finance industry isn't just reckless in its lending habits, big name lenders all too often break or skirt the law in both marketing and collecting.

For example:

In June of this year the Office of the Comptroller of the Currency reached a settlement with Providian Financial Corporation in which Providian agreed to pay at least $300 million to its customers to compensate them for using deceptive marketing tactics. Among these were baiting customers with ''no annual fees'' but then charging an annual fee unless the customer accepted the $156 credit protection program (coverage which was itself deceptively marketed). The company also misrepresented the savings their customers would get from transferring account balances from another card.

In 1999, Sears, Roebuck & Co. paid $498 million in settlement damages and $60 million in fines for illegally coercing reaffirmations—agreements with borrowers to repay debt—from its cardholders. But apparently this is just the cost of doing business: Bankruptcy judges in California, Vermont, and New York have claimed that Sears is still up to its old strong arm tactics, but is now using legal loopholes to avoid disclosure. Now colleagues, Sears is a creditor in one third of all personal bankruptcies. And by the way, this legislation contains provisions that would have protected Sears from paying back any monies that customers were tricked into paying under these plans.

This July, North American Capital Corp., a subsidiary of GE, agreed to pay a $250,000 fine to settle charges brought by the Federal Trade Commission that the company had violated the Fair Debt Collection Practices Act by lying to and harassing customers during collections.

In October, 1998, the Department of Justice brought an antitrust suit against VISA and Mastercard, the two largest credit card associations, charging them with illegal collusion that reduced competition and made credit cards more expensive for borrowers.

Now Mr. President, this is just a few examples, I could go on and on. At a minimum, these illegal and unscrupulous practices rob honest creditors who play by the rules of repayment. And the cost to debtors and other creditors alike are tremendous.

But other practices aren't illegal, merely unsavory.

For example, credit card companies perpetuate high interest indebtedness by requiring low minimum payments and in some cases canceling the cards of customers who pay off their balance every month. Using a typical minimum monthly payment rate on a credit card, it would take 34 years to pay off a $2,500 loan, and total payments would exceed 300 percent of their original principal. A recent move by credit card industries to make the minimum monthly payment only 2 percent of the balance rather than 4 percent—further exacerbates the problems of some uneducated debtors.

Lenders routinely offer low ''teaser'' interest rates which expire in as little as 2 months and engage in ''risk-based'' pricing which allows them to raise credit card interest rates based on credit changes unrelated to the borrower's account. Many credit card contracts now contain binding arbitration clauses—buried in the fine print of contracts which are often not even included with pre-approved card offers—that cut off the borrowers ability to seek redress in the courts in the case of a dispute.

Even more ironic: at the same time that the consumer credit industry is pushing a bankruptcy bill that requires credit counseling for debtors, the Consumer Federation of America found that many prominent creditors have slashed the portion of debt repayments they shared with credit counseling agencies—in some cases by more than half. This may force some agencies to cut programs and serve fewer debtors. At the same time, the industry has stopped the practice of eliminating or significantly reducing the interest rates charged on debts being repaid with the help of a counseling agency making counseling less likely to succeed.

Mr. President, let me repeat myself in case my colleagues somehow missed the blatant hypocrisy of what's going on here: The big banks and credit card companies are pushing to rig the system so that you cannot file for bankruptcy unless you perform credit counseling at the same time that they are jeopardizing the health the credit counseling industry and making it significantly more costly for debtors.

That's pretty brazen, but as my colleagues will hear over and over in this debate, this isn't just an industry that

wants to have it both ways, it wants to have it several different ways.

Of course these are mild abuses compared to predatory lending. Schemes such as payday loans, car title pawns, and home equity loan scams harm tens of thousands of more Americans on top of those shaken down by the mainstream creditors. Such operators often target those on the economic fringe like the working poor and the recently bankrupt. They even claim to be performing a public service: providing loans to the uncreditworthy. It just also happens to be obscenely profitable to overwhelm vulnerable borrowers with debt at usurious rates of interest. Hey, who said good deeds don't get rewarded?

Reading this conference report makes it clear who has the clout in Washington. There is not one provision in this bill that holds the consumer credit industry truly responsible for their lending habits. My colleagues talk about the message they want to send to deadbeat debtors, that bankruptcy will no longer be a free ride to a clean slate. Well what message does this bill send to the banks, and the credit card companies? The message is clear: make risky loans, discourage savings, promote excess, and Congress will bail you out by letting you be more coercive in your collections, by putting barriers in between your customers and bankruptcy relief, and by ensuring that the debtor will emerge from bankruptcy with his vassalage to you intact. This is in stark contrast to the numerous punitive provisions of the bill aimed at borrowers.

So Mr. President, the record is clear: lenders routinely discourage healthy borrowing practices, encourage excessive indebtedness and impose barriers to paying of debt all in the name of padding their profits. It would be a bitter irony if Congress were to reward big banks, credit card companies, retailers, and other lenders for their bad behavior, but that is exactly what passage of bankruptcy reform legislation would do.

I would characterize the debate like this and make it very simple for my colleagues. This is fundamentally a referendum on Congress's priorities and you simply need to ask yourself: whose side am I on? Am I on the side of working families who need a financial fresh start because they are overburdened with debt? Am I for preserving this critical safety net for the middle class? Will I stand with the civil rights community, and religious community, and the women's community, and consumer groups and the labor unions who fight for ordinary Americans and who oppose this bill?

Or will you stand with the credit card companies, and the big banks, and the auto lenders who desperately want this bill to pad their profits? I hope the choice will be clear to colleagues.

MORE BANKRUPTCIES, NOT LESS, IS THE LIKELY RESULT

Mr. President, at the beginning of my statement I said the bankruptcy ''crisis'' is over and it ended without Congress passing legislation. Ironically, it probably ended because Congress didn't act. The bean counters in the consumer credit industry realized that all these bankruptcies weren't good for profits so they started lending less money, and they were more careful about who they lent money to. In fact, the overall consumer debt level actually declined in 1998, and guess what—fewer bankruptcies. And this trend has continued in 1999 and so far in 2000. But if this conference report become law, bankruptcy protection will be harshly rolled back. It will be even more profitable to over burden folks with debt—and the banks and the credit card companies will fall all over themselves trying to do it. but this time America's working families will pay more of the price.

This argument isn't purely theoretical, history and empirical data back it up. I want to ready my colleagues a few passages from an article published in the August 13, 1984 issue of Business week. This article, entitled ''Consumer Lenders Love the New Bankruptcy Laws,'' was written in the recent aftermath of Congress' last tightening of the bankruptcy code in 1984.

Here's how the article begins, quote:

It doesn't take much to get a laugh out of Finn Casperson these days. Just ask him the outlook for Beneficial Corp. now that the U.S. has a tough new bankruptcy law. 'It looks a lot rosier,' says the chairman of the consumer finance company, punctuating the assessment with a hearty chuckle.

The article then explains what the banks and the credit card industries got back in 1984:

But when someone seems to be abusing the revised law, a judge can, on his or her own, throw a case out of chapter 7, leaving the debtor to file under chapter 13. And in chapter 13, where an individual works out a repayment plan under court supervision, lender now can get a court order assigning all of a borrower's income for three years to repaying debts—after allowance for food and other basic needs. Merely empowering a judge to determine that a debtor is abusing the bankruptcy courts was the change most responsive to the lenders' contention that bankruptcy was being used by people capable of meeting their obligations.

Does this sound familiar to colleagues? It should. These ''reforms,'' are substantially similar to what industry says are desperately needed now—the means to curb abusive filings. That was exactly what Congress gave them in 1984. But the critical question is, how did lenders behave after the 1984 ''strengthening'' of the bankruptcy code? That story will help us answer the question: if we give them this new stricter, lopsided law in 2000, what will they do with it?

That 1984 Business Week article suggested what was to come:

Lenders say they will make more unsecured loans from now on, trying to lure back the generally younger and lower-income borrowers recently turned away.

But, Mr. President, that's exactly the problem. The consumer finance industry went after these folks with a vengeance. Lenders felt so protected by the new bankruptcy law that they eventually through caution to the wind and began using the aggressive, borderline deceptive and abusive, tactics that are now common in the industry.

And guess what, both bankruptcies and consumer debt levels exploded after 1985. And some independent observers point the figure directly at the 1984 reforms and the lending industry's foolhardy reaction. In a 1999 Harvard Business School study entitled ''The Rise of Consumer Bankruptcy: Evolution, Revolution, or Both?'' David Moss of the Harvard Business School and Gibbs Johnson, an attorney, lay out the case. The say:

It is conceivable, therefore, that the procreditor reforms of 1984 actually contributed to the growth of consumer (bankruptcy) filings. This could have occurred if the reforms exerted a larger impact in encouraging lenders to lend—and to lend more deeply into the income distribution—than they did in deterring borrowers from borrowing and filing.

Mark Zandi, in the January 1997 edition of ''The Regional Financial Review,'' writes:

While forcing more households into a chapter 13 filing through an income test would raise the amount that lenders would ultimately recover from bankrupt borrowers, it would not significantly lower the net cost of bankruptcies. Tougher bankruptcy laws will simply induce lenders to ease their standards further.

Again, we know this is exactly what happened. Credit card companies sent out over 3.5 billion solicitations last year. They use aggressive tactics to sign up borrowers—and to keep you in debt once they get you. And they also went after low income individuals—even though they might be worse credit risks. Why? Because they are desperate for credit, they are a captive audience and can be charged exorbitant interest rates and fees. Despite the fact that there are hundreds of credit card firms targeting low income borrowers, interest rates and terms on these cards have not been driven down by the supposed competition. For these borrowers, the market is failing. And firms who aren't squeamish about using aggressive collection tactics have proved that the poor, or those with bad credit—even though they might be less credit worthy onpaper—can be kept to default rates as low as those for wealthier borrowers. This is because the poor are more vulnerable to intimidation and they are less likely to have legal defense against law suits.

Mr. President, I ask you, could the Senate play a better joke on the American people? The supposed bankruptcy ''crisis'' of the 1990's—which bill supporters say merits a harsh rollback of bankruptcy protection for debtors—actually has its origins in the last time Congress ''reformed'' the bankruptcy code in favor of industry. I ask you, why would we be so stupid again? It's like our parents used to say: ''Fool me once, shame on you. Fool me twice, shame on me.''

WORSE THAN WHAT THE SENATE PASSED

Now Mr. President, not only does the majority leader want to ram through bankruptcy legislation on the State Department authorization conference report, which he has literally hijacked for that purpose, there is no question that this is a significantly worse legislation than what passed the Senate. In fact, there's no pretending that this is a bill designed to curb real abuse of the bankruptcy code.

Does this bill take on wealthy debtors who file frivolous claims and shield their assets in multimillion dollar mansions? No, it guts the cap on the homestead exemption adopted by the Senate. I ask my colleagues who support this bill: how can you claim that this bill is designed to crack down on wealthy scofflaws without closing the massive homestead loophole that exists in five states? And in a bill that falls so harshly on the backs of low and moderate income individuals?

I wonder how my colleagues who vote for this conference report will explain this back home. How will they explain that they supported letting wealthy debtors shield their assets from creditors at the same time they voted to end the practice under current law of stopping eviction proceedings against tenants who are behind on rent who file for bankruptcy? With one hand we gut tenants rights, with the other we shield wealthy homeowners.

Nor does this bill contain another amendment offered by Senator SCHUMER and adopted by the Senate that would prevent violators of the Fair Access to Clinic Entrances Act—which protects women's health clinics—from using the bankruptcy system to walk away from their punishment. Again, I thought the sponsors of the measure wanted to crack down on people who game the system. What could be a bigger misuse of the system then to use the bankruptcy code to get out of damages imposed because you committed an act of violence against a women's health clinic?

And yet the secret conferees on his bill simply walked away. They walked away from a real opportunity to prohibit an abuse that all sides recognize exists, but they also walked away from an opportunity to protect women from harassment. They walked away from the opportunity to protect women from violence.

So why shouldn't people be cynical about this process? Ever since bankruptcy reform was passed by the Senate this bill has gotten less balanced, less fair, and more punitive—but only for low and moderate income debtors. So again, I would say to my colleagues, this bill is a question of our priorities. Will we stand with wealthy dead beats or will we take a stand to protect women seeking reproductive health services from harassment?

But unfortunately, these were not the only areas where the shadow conferees beat a retreat from balance and fairness. For example:

Safe harbor dollar amounts—The Senate bill provided that the higher of state or national median income should be used for the safe harbor from the means test. The shadow conference uses state median income, which is a far lower number in many states. This is an important issue because debtors in high income/high expense areas of low-income states will be very much disadvantaged.

Safe harbor treatment of women not receiving child support—The shadow conference has inserted the ''Hyde safe harbor'' which protects some low income families from the arbitrary means test based on Internal Revenue Service expense standards. But this safe harbor will not benefit many single mothers who need help the most because it is based on the combined income of the debtor and the debtor's spouse, even if they are separated, the spouse is not filing for bankruptcy, and the husband is providing no support for the debtor and her children. In other words, a single mother who is being deprived of needed support from a well-off spouse is further harmed by this bill, which will deem the full income of that spouse available to pay debts for the safe harbor determination. This unfair treatment appears clearly intended, since the safe harbor from creditor motions elsewhere in the same section is worded differently, and does not take into account the income of a separated nondebtor spouse, except to the extent support is actually being paid by that spouse.

Gutting the Durbin means test ''mini-screen''—The Senate bill contained an amendment meant to give bankruptcy judges more flexibility in applying the means test for moderate income debtors. The provision was changed in a way that turns the intent of this provision on its head. Instead of creating more flexibility in the means test, it would mean much less flexibility.

Elimination of protections for family farmers and family fishermen—The Senate bill enhanced bankruptcy protections for family farmers and added protections for family fishermen. Senate negotiators have reportedly agreed to eliminate entirely the new protections for fishermen, as well as most of the new protections for family farmers.

Unrealistic valuation of property—Senate negotiations have reportedly agreed to a House provision that would change current rules on property valuation. Under this provision, property would have to be valued at retail value, without accounting for any of the costs of sale, despite the fact that resale at such value would be impossible.

Elimination of Byrd and Levin amendments on consumer credit—The amendment to the Senate bill offered by Senator BYRD required that consumer information be included in Internet credit card applications. The Levin amendment prohibited certain finance charges on credit card payments made within the grace periods provided by creditors. Senate negotiations have reportedly agreed to delete both of these important amendments.

Unrealistic notice requiremnts—A provision from the House bill requires that debtors use the address provided in pre-bankruptcy communications to provide any necessary notice to their creditors. Under this provision, it would be impossible in many cases for debtors to know what address to use, since debtors often do not retain their pre-bankruptcy communications.

Elimination of sanctions against creditors who file abusive motions—The Senate bill contained sanctions against creditors who file motions claiming ''abuse'' which are coercive or not substantially justified. These sanctions would have been a key protection against overly aggressive creditors for debtors in bankruptcy. Senate negotiators have reportedly agreed to eliminate these sanctions.

Filing of tax records—S. 625 required debtors to provide tax returns only if requested by a party in interest. The shadow conference requires the filing of tax records in every case.

A TERRIBLE PROCESS

Mr. President, let me just say a few words about the process on this legislation, which is terrible. The House and Senate Republicans have taken a secretly negotiated bankruptcy bill and stuffed it into the State Department authorization bill in which not one provision of the original bill remains. Of course, State Department authorization is the last of many targets. The majority leader has talked abut doing this on an appropriations bill, on a crop insurance bill, on the electronic signatures bill, on the Violence Against Women Act. So desperate are we to serve the big banks and credit card companies that no bill has been safe from this controversial baggage.

We are again making a mockery of scope of conference. We are abdicating our right to amend legislation. We are abdicating our right to debate legislation. And for what? Expediency. Convenience.

However, I'm not sure that we have ever been so brazen in the past. Yes we have combined unrelated, extraneous measures into conference reports. Usually because the majority wishes to pass one bill using the popularity of another. Putting it into a conference report makes it privileged. Putting it into a conference report makes it unamendable. So they piggy back legislation. Fine. But Mr. President, this may be the first time in the Senate's history where the majority has hollowed out a piece of legislation in conference—left nothing behind but the bill number—and inserted a completely unrelated measure.

I would challenge my colleagues walk into any high school civics class room in America and explain this process. Explain this new way that a bill becomes law. What the majority has essentially done is started down the road toward a virtual tricameral legislature—House, Senate, and conference

committee. But at least the House and the Senate have the power under the constitution to amend legislation passed by the other house—measures adopted by the all-powerful conference committee are not amendable.

Is bankruptcy reform so important that we should weaken the integrity of the Senate itself? It is not. I would question whether any legislation is that important, but to make such a blatant mockery of the legislative process on a bill that is going to be vetoed anyway? That is effectively dead? Just to make a political point? What have we come to?

This is a game to the majority. The game is how to move legislation through the Senate with as little interference as possible from actual Senators.

Colleagues I want to remind you of what Senator KENNEDY said 4 years ago when the Senate voted to gut rule 28, the Senate rule limiting the scope of conference, that we are violating with this conference report. Speaking very prophetically he said:

> The rule that a conference committee cannot include extraneous matter is central to the way that the Senate conducts its business. When we send a bill to conference we do so knowing that the conference committee's work is likely to become law. Conference reports are privileged. Motions to proceed to them cannot be debated, and such reports cannot be amended. So conference committees are already very powerful. But if conference committees are permitted to add completely extraneous matters in conference, that is, if the point of order against such conduct becomes a dead letter, conferees will acquire unprecedented power. They will acquire the power to legislate in a privileged, unreviewable fashion on virtually any subject. They will be able to completely bypass the deliberative process of the Senate. Mr. President, this is a highly dangerous situation. It will make all of us willing to send bills to conference and leave all of us vulnerable to passage of controversial, extraneous legislation any time a bill goes to conference. I hope the Senate will not go down this road. Today the narrow issue is the status of one corporation under the labor laws. But tomorrow the issue might be civil rights, States' rights, health care, education, or anything else. It might be a matter much more sweeping than the labor law issue that is before us today.

He was absolutely right, Mr. President. We are headed down that slippery slope he described. For the last three years we have handled appropriations in this manner. We've combined bills together, the text is written by a small group of Senators and Congressmen and these bills have been presented to the Senate as an up or down proposition. And now we're doing it with so-called bankruptcy reform.

Conference reports are privileged. It is very difficult for a minority in the Senate to stop a conference report as they can with other legislation. That's why these conference reports are being used in this way. And that's why the rules are supposed to restrict their scope.

Last year, Senator DASCHLE attempted to reinstate rule 28 on the Senate floor. He was voted down, and he spoke specifically about how we have corrupted the legislative process in the Senate:

> I wish this had been a one time event. Unfortunately, it happens over and over and over. It is a complete emasculation of the process that the Founding Fathers had set up. It has nothing to do with the legislative process. ''If you were to write a book on how a bill becomes a law, you would need several volumes. In fact, if the consequences were not so profound, some could say that you would need a comic book because it is hilarious to look at the lengths we have gone to thwart and undermine and, in an extraordinary way, destroy a process that has worked so well for 220 years.

So where does it stop? As long as the majority want to avoid debate, as long as the majority wants to avoid amendments and as long as Senators will go along to get along we will find ourselves forced to cast up or down votes on legislation—a rubber stamp yes or no—with no ability to actually legislate.

And each Senator who today votes for this conference report should know: they may find themselves in the majority today, they may be OK with letting this bill go because they are not offended by what it contains, but be forewarned, the day will come when you will be on the other side of this tactic. Today it is bankruptcy reform, but someday you will be the one protesting the inclusion of a provision that you believe is outrageous.

Regardless of the merits of bankruptcy reform, this is a terrible process. I would urge my colleagues to vote ''no'' to send a message to the leadership. Send a message that you want your rights as Senators back.

Finally, Mr. President, let me end on this note. I think many in this body believe that a society is judged by its treatment of its most vulnerable members. Well, by that standard this is an exceptionally rough bill in what has been a very rough Congress. All the consumer groups oppose this bill, 31 organizations devoted to women and children's issues oppose this legislation.

There is no doubt in my mind that this is a bad bill. It punishes the vulnerable and rewards the big banks and credit card companies for their own poor practices. And this legislation has only gotten worse in sham conference.

Earlier, Mr. President, I used the word ''injustice'' to describe this bill—and that is exactly right. It will be bitter irony if creditors are able to use a crisis—largely of their own making—to convince Congress to decrease borrower's access to bankruptcy relief. I hope my colleagues reject this scheme and reject this bill.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

EMBASSY SECURITY AND BANKRUPTCY CONFERENCE REPORT

Mr. FEINGOLD. Mr. President, let me begin by agreeing with the Senator from Minnesota. The measure before us is a work of injustice. It works injustice on the Senate's procedures. And if it passes, it will work injustice on millions of Americans struggling to cobble together a fresh start after financial hardship. And the measure is also a clear example of the power of money in the legislative process. That's an injustice too, because it puts the needs of the special interests ahead of the needs of the American people.

Let us begin with the procedural injustice. If Senators allow business to be done as is being attempted with this conference report, then we might as well all just go home. Because conference committees will be doing our jobs.

Unlike a normal conference report, this conference report includes absolutely no legislation on the matters that the Senate sent to the conference committee—which, for the information of my colleagues and the people watching, was a bill on embassy security and authorizations for the Department of State, a terribly serious matter. That was not what came back—nothing like that. Instead this conference report brings back to the Senate a complete bill entirely irrelevant to the bill sent to conference. What it brings back is a bankruptcy bill.

That is not the job of a conference committee. It is not the job of a conference committee to search out the legislative vineyards for whatever issues appear ripe for decision. It is not the job of a conference committee to write legislation on matters not committed to it. The conference committee is doing our jobs.

The Constitution confers on the Senate and the House of Representatives certain enumerated powers. Article I, Section 1, of the Constitution provides: ''All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.''

If the Senate so chooses, it may delegate some of its powers to a committee of its Members. But if those Members so delegated recognize no limits on their authority, then they have usurped nothing less than all the powers that the Constitution vests in the Senate itself. The conference committee is doing our jobs.

Who needs a full Senate and a full House of Representatives in Congress assembled? The conference committee is doing our jobs.

Who needs amendments between the Houses on the bankruptcy bill? The conference committee is doing our jobs.

Who needs the Senate to disagree to any House amendments or insist on any Senate amendments on the bankruptcy bill? The conference committee is doing our jobs.

Who needs the Senate to request a conference or agree to a conference on the bankruptcy bill? The conference committee is doing our jobs.

Who needs the Senate to consider any motions to instruct the conferees

on the bankruptcy bill? The conference committee is doing our jobs.

Who needs the Senate even to name conferees on the bankruptcy bill? The embassy security conference committee is doing our jobs.

Who needs for Congress to address the increase in the minimum wage that the Senate attached to the last bankruptcy bill? The conference committee is doing our jobs.

Who needs for Congress even to take up, consider, debate, and amend this particular bankruptcy bill, which was introduced on October 11? The conference committee is doing our jobs.

Who needs for the Senate to take any action whatsoever to grant this conference committee power to act on bankruptcy? The conference committee is doing our jobs.

Who needs all the Senators who are not Members of the conference committee? Because the conference committee is doing our jobs.

Who needs for us to fly and drive in to Washington, sometimes from vast distances, from around the country? Because the conference committee is doing our jobs.

Who needs all these Senate offices and all the Senators' staff? A handful of offices would do, four to be exact, because the conference committee is doing our jobs.

As one longtime observer of Senate procedures asked, who died and made them king? Because the conference committee is doing our jobs.

The Senate used to have rules to prevent this sort of thing. Rule 28 of the Standing Rules of the Senate addresses conference committees. Two of that rule's six paragraphs deal with the scope of conferences.

Paragraph 2 of Rule 28 states, in relevant part:

> Conferees shall not insert in their report matter not committed to them by either House. . . . If new matter is inserted in the report . . ., a point of order may be made against the report, and if the point of order is sustained, the report is rejected or shall be recommitted to the committee of conference if the House of Representatives has not already acted thereon.

And then, paragraph 3 of Rule 28, dealing with complete substitutes, states:

> 3(a) In any case in which a disagreement to an amendment in the nature of a substitute has been referred to conferees, it shall be in order for the conferees to report a substitute on the same subject matter; but they may not include in the report matter not committed to them by either House. They may, however, include in their report in any such case matter which is a germane modification of subjects in disagreement.
>
> (b) In any case in which the conferees violate subparagraph (a), the conference report shall be subject to a point of order.

Then, Mr. President, on October 3, 1996, in what seemed like almost a whim, the Senate cast aside this century-old Standing Rule, which I just read in part. To secure last-minute, end-of-session passage of a version of the Federal Aviation Authorization Act that included an extraneous provision of special interest to the Federal Express Corporation, the Senate voted 56 to 39 to overturn the ruling of the Chair and nullify the rule.

At that time, Senator SPECTER called it: ''a very, very serious perversion of Senate procedures.''

Mr. President, conference reports are privileged. Consequently, Senators cannot debate a motion to proceed to a conference report. Senators cannot employ a filibuster to block its consideration.

Conference reports are not amendable. If, as is often the case, and is the case here, the House has already acted on a conference report, motions to recommit the conference report to the conference committee are not in order in the Senate.

Conference reports present the Senate with a take-it-or-leave-it proposition.

As I am sure my colleagues have observed, the Senate works at two speeds: a deliberative speed and a get-down-to-business speed. The regular order under the Standing Rules of the Senate reflects the deliberative speed. We see the getting-down-to-business speed in unanimous consent agreements, the budget process, and conference reports.

When Senators take up these get-down-to-business matters, they enter into a kind of social contract. Senators agree to give up their normal rights under the rules to debate and amend, which are very important in this institution. In exchange, through subject-matter limitations, these procedures grant Senators some notice—and Senators have a right to some notice—of what they can expect.

As Senator KENNEDY said in 1996:

> ''We send a bill to conference . . . knowing that the conference committee's work is likely to become law.

And until October 1996, the precedents governing conference committees prohibited them from bringing back any matter ''entirely irrelevant'' to what the Senate or House passed.

In October 1996, the Senate breached that compact. Now the process can force Senators to live with restrictions on their rights to debate and amend conference reports without having even the slightest idea of the reports' subject matter in advance. And the last-minute additions will probably become law.

Mr. President, I think most would agree, this change is profoundly undemocratic. Conference committees are populated disproportionately by senior Members and Members favored by the leadership. This conference, as a case in point, was signed off on for the Senate by just four men who have been here an average of 22 years. Conference committees are far less representative of the people than the Senate as a whole.

In conference, the majority need not work with the minority party at all. Under this majority, the majority often has not. On this bill, the majority certainly has not.

Conference committees usually work in secret. Senate rules require no open meetings. House practice has generally required one photo opportunity. Thereafter, in the eyes of the Senate's rules, Senators' signatures on the conference report constitute their votes, and nothing further need be done in public.

Mr. President, we know that conference committees have long been the graveyards of amendments. Senator Russell Long used to quip, ''Why fight an amendment on the floor if you can drop it in conference?'' And that appears to be what has happened to the minimum wage increase that the Senate attached to the last bankruptcy bill, and to many other amendments, including some that I proposed, that made the bill somewhat more palatable to the Senate.

And today we see a conference committee becoming the delivery room for a brand new piece of legislation. Like Athena from Zeus's head, a new law is springing whole from the conference committee without floor consideration, debate, or amendment.

Today, the chickens are coming home to roost. This majority, in its continuing crusade to snuff out any opportunity for the minority to debate and amend, now carries this monstrous conference report precedent to its logical extreme.

As I said in my statement on the Military Construction Appropriations bill on May 18, this majority has time after time flouted or changed the Standing Rules of the Senate to ratchet down the rights of the minority. This majority has thus shown a disturbing willingness to cast aside long-held precedents to serve immediate policy ends. Minority party rights have suffered as a result.

Mr. President, four Senators do not constitute the Senate. Yet absent Senate rules to restrain them, small groups of Senators meeting secretly in conference committees can arrogate much—if not most—of the Senate's power.

If the Senate allows the kind of legislation-writing by conference committee that has taken place here, then Senators will have done nothing less than surrender their jobs. They will have surrendered their authority and responsibilities to the very few who happen to be in whatever conference committee is meeting on any given day.

If we allow this practice, we will have perpetrated, in my view, and I don't think this is an exaggeration, one of the greatest abdications of responsibility in the history of the Senate.

Let us be clear about why this is happening. When the Senate considered the last bankruptcy bill, in November of 1999, Senator KENNEDY offered an amendment to provide working Americans a much-needed increase in the minimum wage. The Republican caucus added 112 pages of tax breaks, costing $103 billion, most of which would have gone to the top fifth of the income distribution.

The Senate could have sent a bill on bankruptcy and the minimum wage to conference with the House. But the Constitution requires that revenue measures originate in the House. So the plain effect of the Republican tax break amendment was to kill the bankruptcy bill and also to kill the minimum wage increase.

And now, the majority seeks to take the remains of that dead bankruptcy bill from the graveyard, and stitch it together with material from completely different entities that they have found in various legislative dissecting rooms. The result is a not a modern Prometheus, but a monster, artificial and hideous.

Now why did the majority engage in this extremely unusual procedure? Why seek a conference committee that could be used to work its will in secret and bring to the floor a new bill that will be voted on up or down with no amendments? Was it to bring forward a bill that is crucial to our national security? No. Are the experts in the field clamoring for it? No.

I have talked to bankruptcy judges, bankruptcy trustees, practitioners representing both creditors and debtors, law professors who specialize in this area, and they all strongly oppose this bill. No, the clamor is coming from another quarter. The special interests. The interests that want this bill so desperately that they have pushed the Majority to use this most unusual, almost unprecedented procedure, are the big banks and the credit card companies. They want this reform bill because it is skewed toward their interests. This is a bill written by and for the credit card companies. That's why all the nonpartisan experts on bankruptcy law oppose it.

So why is it before the Senate today? Mr. President, for over a year now, I have been Calling the Bankroll on the Senate floor, to inform my colleagues of the campaign contributions, particularly soft money contributions, that have been given by interests that would benefit from or that oppose legislation that we are considering here in the Senate. I have often stated that these contributors set the agenda on this floor. And this bill, I'm afraid, is a poster child for the influence of money on the legislative process.

Mr. President, Common Cause put out a report this spring showing the stunning amount of money that the credit industry has contributed to members of Congress and the political parties in recent years. $7.5 million in 1999 alone, and $23.4 million in just the last three years. One company that has been particularly generous is the MBNA Corporation, one of the largest issuers of credit cards in the country. In 1998, MBNA gave a $200,000 soft money contribution to the Republican Senatorial Committee on the very day that the House passed the conference report and sent it to the Senate—not terribly subtle.

In December 1999, MBNA gave its first large soft money contribution ever to the Democratic party—it gave $150,000 to the Democratic Senatorial Campaign Committee on December 22, 1999, Mr. President, right in the middle of Senate floor consideration of the bankruptcy bill. And just a few months ago, on June 30, 2000, Alfred Lerner, Chairman and CEO of MBNA—one person, one individual—gave $250,000 in soft money to the RNC.

Mr. President, the following figures are from the Center for Responsive Politics, through the first 15 months of the election cycle, and in some cases include contributions given later in the election cycle. MBNA and its affiliates and executives gave a total of $710,000 in soft money to the parties. Visa and its executives gave more than $268,000 in soft money to the parties during the period. Mastercard gave nearly $46,000.

Finance and credit card companies gave $5.4 million in soft money, PAC and individual hard money contributions in the first 15 months of the 2000 election cycle. When you add that to the $14.6 million that the commercial banks gave, you have, Mr. President, in the midst of all these other special interests, one of the most powerful lobbying forces in public policy today. And you just might have the answer, in fact you do have the answer, to the question, ''why is this bill before the Senate today?''

Some in this body say that the public doesn't care about campaign finance reform Mr. President. But I would be willing to bet that if you took a public opinion poll and asked the question whether the Senate should use extraordinary procedural means to send a campaign finance bill that would ban soft money to the President instead of this bankruptcy bill, the answer would be an overwhelming ''Yes.''

After all, the House passed the Shays-Meehan campaign finance reform bill last year by an overwhelming margin. And the President would sign that bill. All that is needed for campaign finance reform to become law is Senate approval, and a majority of Senators supports this bill.

On the other hand, the President has said repeatedly that he will veto this bankruptcy bill. So even if this procedural gambit is successful, the bill won't become law.

But the campaign finance reform bill doesn't have millions of dollars in campaign contributions behind it, the same way this bankruptcy bill does. So the majority persists, the majority persists in trying to force this bill through the Congress in the waning days of the session. And it may get its way. But it will not pass this bill into law.

Mr. President, this bill has millions of dollars of soft money contributions behind it. And I'm sure that the donors of those contributions believe they are doing the right thing for their companies by giving them. But it is very interesting that the leaders of major corporations, whose money drives this soft money system, are increasingly uncomfortable with it. In a poll of top business executives from the 1,000 largest companies in the United States, released last Wednesday by the Committee for Economic Development, 79 percent of the respondents said they believe the campaign finance system in this country is broken and needs to be reformed. Sixty percent of respondents agree that soft money should be banned.

So even among those interests that benefit from the soft money system, there is strong support for ending it. And the reason for that, I believe, is two-fold. First, America's businesses and business people are tired of being hit up for money. Year after year, these credit card companies have been sending money to the parties and Members of Congress hoping for some return, and I think they are tired of it.

Second, Mr. President, business leaders in this country are coming to realize how bad this system looks to the public, how poorly it reflects on the legislative and political process. The word is out, for example, about this bankruptcy bill. It is not necessary, it goes too far, it's unfair and imbalanced. Newspapers have editorialized against it; law professors have written op-ed pieces about what's wrong with it; news magazines have done exposes of the money behind it. The monied interests have succeeded in getting the bill back to the floor, and they may get it through the Congress. But if it passes, the bill and this body will not have the respect of the American people or the press. That's why America's business leaders want reform of the system Mr. President, because they know very well it taints all of us, even the legislation that they so desperately want the Congress to pass.

Mr. President, I invite my colleagues to look about this Senate Chamber and examine its form. Since January 4, 1859, this Senate has done business in this open room, ringed all around by galleries for the people. To the west, behind me, are the public visitors' galleries. To the north, behind the Presiding Officer, are the wooden desks of the press, who report our proceedings to the Nation.

The Senate began holding sessions open to the public more than 206 years ago, on February 20, 1794. The Senate opened galleries for the public in December 1795. The first radio broadcast from the Senate Chamber took place in March of 1929.

Some Senate hearings appeared on television as early as 1947. Many credit ABC's live coverage of the Army-McCarthy hearings in 1953 with helping to turn the tide against McCarthyism. Twenty years later, another generation learned about democracy as Senator Sam Ervin presided over the Watergate hearings in 1973.

The Senate began radio broadcasts of floor debate in 1978 with the debate on the Panama Canal Treaty. The House began televising its floor proceedings in 1979. The Senate opened its proceedings to television on a trial basis

in May 1986. And since June 2, 1986, C–Span has carried our debates to viewers throughout the Nation.

We conduct ourselves in the open like this because the Senate best serves the Nation when it conducts its business on this Senate floor, open to the public view. It is here, on this Senate floor, that each of this Nation's several states is represented. And it is here, in their debate and votes on amendments and measures, that Senators become accountable to the people for what they do.

The Senate is distinctive for the amount of work that it used to do on the Senate floor. In contrast to the House of Representatives, where more work is done in committee, the Senate used to do more work on the floor.

The majority today diminishes the Senate floor in favor of the backroom conference committee, chosen to address these issues by none but themselves, accountable to none but themselves, and open to observation by none but themselves.

The proceedings of the Senate floor are open to view because, as Justice Louis Brandeis wrote, ''Sunlight is said to be the best of disinfectants.''

William Jennings Bryan put it this way: ''The government being the people's business, it necessarily follows that its operations should be at all times open to the public view. Publicity is therefore as essential to honest administration as freedom of speech is to representative government.''

It is a legal maxim that ''Truth fears nothing but concealment.'' And it follows as night follows day that concealment is the enemy of truth.

As Justice Brandeis also wrote, ''Secrecy necessarily breeds suspicion.'' How will the public gain confidence in the work of the Senate if the public cannot see its operations?

Morley Safer once said that ''All censorship is designed to protect the policy from the public.'' If the majority had confidence in its policy, would it not do its business in the light of day?

As Senator Margaret Chase Smith said on this Senate floor on September 21, 1961, ''I fear that the American people are ahead of their leaders in realism and courage—but behind them in knowledge of the facts because the facts have not been given to them.''

In another context, Senator Robert Taft said on this Senate floor on January 5, 1951:

> The result of the general practice of secrecy has been to deprive the Senate and the Congress of the substance of the powers conferred on them by the Constitution.

And as Senator KENNEDY, our distinguished colleague, warned in 1996:

> This . . . is a vote about whether this body is going to be governed by a neutral set of rules that protect the rights of all Members, and by extension, the rights of all Americans. If the rules of the Senate can be twisted and broken and overridden to achieve a momentary legislative goal, we will have diminished the institution itself.

And that, in the end, is what has happened here. Four Senators who had the good fortune to be named to confer on an embassy security bill have taken it upon themselves to conduct the business and exercise the powers that the Constitution vested in the Senate and the Congress.

In 1973, the nuclear physicist Edward Teller said, ''Secrecy, once accepted, becomes an addiction.'' Mr. President, my fear is that this majority will simply continue down this path of snuffing out minority rights, creating one legislative Frankenstein after another.

Senator KENNEDY warned in 1996: ''It will make all of us less willing to send bills to conference . . . .'' My fear is that we can no longer trust any conference committee.

On this Halloween, I fear for what legislative creatures will walk abroad as long as this majority holds power. I, for one, will stand guard against them and fight them. In defense of the Senate, I urge my colleagues to join me, Senator WELLSTONE, and others, and oppose this conference report.

I yield the floor.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I hope every Democrat or staff member heard the words of Senator FEINGOLD. His words will be memorable in terms of the record of the Senate. They are prophetic for now and in the future. I thank the Senator for the power of his presentation, for the power of his words.

I ask the Senator from Illinois how much time he thinks he will need.

Mr. DURBIN. Twenty minutes.

Mr. WELLSTONE. Mr. President, I yield 20 minutes to the Senator from Illinois, Mr. DURBIN.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, before beginning, I say to the Senator from Minnesota, two of our colleagues, Senator DORGAN and Senator HARKIN, have asked for 10 minutes each, I think Senator HARKIN first. I do not know if the Senator wants to make that part of his unanimous consent request at this time.

Mr. WELLSTONE. I did tell Senator HARKIN I would grant him some time. I want to allow some time for myself to speak in opposition to this as well. Let me see how things go.

Mr. DURBIN. I thank the Senator from Minnesota.

BANKRUPTCY

Mr. DURBIN. Mr. President, you can expect the Halloween thing to be part of most of our speeches on the floor today regardless of the issue at stake. It is Halloween, and children of all ages will be dressing up in their favorite costume and ringing doorbells yelling: Trick or treat.

Our Halloween tradition that we enjoyed as kids, and even as adults, dates back to Celtic practices, when on this day witches and other evil spirits were believed to roam the Earth, playing tricks to mark the season of diminishing sunlight.

The 106th Congress is waning. Our legislative days will soon be coming to an end, and we will be ending the legislative term with a cruel legislative trick: a bankruptcy conference report masquerading as a State Department authorization bill. You know Congress is close to adjournment when slick procedural maneuvers are used to bring a one-sided work product to the Senate floor.

The majority found a shell conference report, they basically held a meeting without an official conference committee, struck the contents of the original bill, and plugged in the bankruptcy bill that we have before us today. Rather than negotiate with Democrats directly or work to produce a bipartisan bill that the President might support, they went back to their old tactic: Take it or leave it; this is the Republican version; this is the version supported by business. Take it or leave it.

When I hear all the claims in the Presidential campaign about bipartisanship, I shake my head when I look at the Republican leadership in the Senate and the House which continuously stops the Democrats from participating. If we are going to have bipartisanship, shouldn't we have it on a bill as important as bankruptcy reform?

Let me say from the outset, I support bankruptcy reform. Two years ago, I was on the Judiciary Committee and the subcommittee with jurisdiction over this issue. Senator GRASSLEY and I spent countless hours with our staffs trying to come up with meaningful and fair bankruptcy reform.

We had a good bill. Ninety-seven Members of the Senate voted for it. I thought that was a pretty good endorsement of a bipartisan effort, but it has gone downhill consistently ever since.

That bill was then trapped in a conference committee that was totally Republican, no Democrats allowed. They brought back a work product that was the byproduct, I guess, of the best wishes of the credit industry. It had no balance to it whatsoever. Frankly, it was defeated. Then we turned around—I guess it wasn't called; it would have been defeated by Presidential veto.

Then over the next 2 years, others worked on this issue, and I hoped we would return to a bipartisan approach. It did not happen. So for all of the calls for bipartisanship by the Republican side of the aisle, when it comes to conference committees, no Democrats are allowed. Republicans said: Take it or leave it. In this case, we should definitely leave it.

The bankruptcy code is a complex piece of law. When I was debating this in earlier years, I marveled at the fact that I was considered to be one of the spokesmen on the issue of bankruptcy.

What is my experience in bankruptcy? Thirty years ago I took a

bankruptcy course in law school, and 20 years ago I was a trustee in a bankruptcy in Springfield, IL. That is the sum and substance of my experience in bankruptcy, and I turned out to be one of the more experienced people at the table on the issue, one I had to relearn the complexities of in a short period of time.

A constant theme has guided me through this debate, and that is: Yes, there are people who go to bankruptcy court and file, abusing the system, gaming the system, trying to avoid their responsibility to pay their just debts. I believe that is the case, and if this law is directed at those people, I am for it.

Secondly, I believe there are abuses on the other side as well. I do not need to tell the others who are gathered and those following this debate how many credit card solicitations you receive at home. Quite a few, I bet. I will go through some statistics in a few minutes about the volume of credit card solicitations.

I have a godson in Springfield, IL, Neil Houlihan. He is now 7 or 8 years old. He got his first credit card solicitation at the age of 6. This is a bright young man, but I do not believe that at the age of 6, when you are learning to ride a bicycle, you should have a credit card in your back pocket. Obviously, MasterCard did and sent Neil his solicitation.

They have sent solicitations to children, people in prison, and family pets. Everyone gets one. Every time you go home at night, you sort through all the offers to give you a new credit card. In a way, it is flattering; you feel empowered: You get to make that decision. In another way, the credit card industry would have us carry as many pieces of plastic in our pocket as possible, with little or no concern as to whether we can handle the debt.

What I believe—and I hope others agree with me—is we should not ration credit in America nor should we ration information about credit in America. We ought to know, as individuals, what the terms of these credit card agreements are, what the traps are that you can hardly read with a magnifying glass on the back of your statement. We have a right to know what we are getting into. If it is a caveat-emptor situation, it is not fair. Consumers have a right to know.

The democratization of credit in America has made this a better place to live. I understand the fact that not too many years ago, if a woman was a waitress in a restaurant, the likelihood that she could get a credit card was next to zero. Today she could qualify for one. That is a good development.

We have to look at the abuse of solicitation of credit cards and what it leads to. The credit card industry wants us to close down the loopholes in the bankruptcy code, but they do not want us to look at the loopholes in their own system. When I explain the details, my colleagues will understand.

They say this is a reflection on the moral decadence of America; that so many people are filing for bankruptcy. I assume those who abuse the system may be morally decadent. Let someone else be the judge of it. At least it raises that issue.

I asked the credit card industry: Do you have a moral responsibility? Are you meeting your moral responsibility? When you flood people who are not creditworthy with solicitations for more credit cards, are you meeting your responsibility? When you put ATMs at casinos, are you meeting your responsibility? When you go to football games and basketball games at the college level on up and say, We can give you a beautiful sweatshirt that shows the University of Illinois symbol if you, as a student, will sign up for a credit card, are you meeting your moral responsibility?

When the dean at Indiana University says the No. 1 reason kids drop out of school is credit card debt—they have so much debt accumulated, they have to go to work and try to pay some of it off—are you meeting your moral responsibility?

This field of morality can be a little tricky, but this credit card industry does not believe they have a special responsibility in this debate. I think they are wrong.

In 1999, there were 3.5 billion credit card solicitations mailed to American households. Let me tell you why that is interesting. There are 78 million creditworthy households in America and 3.5 billion credit card solicitations. Do you ever wonder why your mailbox is full of these solicitations? They are, frankly, coming at you in every direction, and it is not just through the mails; it is in magazines; it is on television; it is everywhere you turn. They try to lure you into signing up for another credit card with very few questions asked.

These 3.5 billion credit card solicitations, frankly, do not tell you all you need to know about the obligations you are incurring.

I continue to believe, as I did when this debate got started, when we passed a strong disclosure provision, that consumers were entitled to know some very basic things.

This is one of the things I suggested but which the credit card industry rejected. It is just this simple. I think they ought to say, in every credit card statement: If you make the minimum monthly payment required, it will take you X number of months to pay off the balance. When you have paid it off, this is how much you will have paid in interest and how much you will have paid in principal.

That is not a tough thing to calculate; it is not a radical suggestion; it is disclosure, so that someone who looks at a credit card debt—let's say they want to pay the 2 percent monthly minimum on $1,295.28—is told, as part of routine disclosure, it will take them 93 months—that is more than 7 years—to pay off the balance. And when it is all over, their payments will have come to $2,418, almost twice the original balance.

The credit card industry said that is an outrageous disclosure that they would disclose this to people to whom they send monthly statements. At first they said it was not technologically possible. That is laughable, in this world of computers, that they could not tell you that basic information. They do not want to tell you that because they understand, as long as people are paying that minimum monthly payment, they are going to be trapped forever in paying more and more interest.

There are times when people cannot pay more than the minimum monthly balance. That is a decision—a conscious decision—consumers should make. But I think the credit card industry owes it to people across America to tell them the terms of what they are getting into. Frankly, they have resisted that all along.

It is my understanding that a lot of the language we have put in here about credit card disclosure, and even saw in the Senate bill, has basically been eliminated. It is my understanding that it has been weakened in many respects.

The Republican leadership brings this bill to the floor and permits banks with less than $250 million in assets—and that, incidentally, is over 80 percent of the banks in America—to have the Federal Reserve provide its customers with a toll free number to review their credit card balances for the next 2 years. So instead of telling you on a monthly statement, with all the information they pile in—all the circulars, all the advertising—they are going to give you an 800 number and say: You can call here, and maybe they will answer your question as to how much you are ultimately going to have to pay. You know that isn't going to happen. The credit card industry knows it is not going to happen. That is as far as they want to go.

Let me tell you about another thing that is amazing. It is called the homestead exemption. Did you know, in most States now, if you file for bankruptcy, you are allowed to claim as an exemption—in other words, protected from the bankruptcy court and your creditors—your homestead, your home? But every State has a different standard about how much you are allowed to exempt.

My colleague, Senator KOHL of Wisconsin, basically said we ought to get right of this because fat cats go out and buy magnificent homes and mansions and ranches and farms and call them their homes, plow everything they have into them, and then say to their creditors they have nothing to put on the table.

We had instances where the Commissioner of Baseball many years ago—one of the former Commissioners of Baseball—managed to protect a mansion in

Florida because he bought it in time before he filed for bankruptcy. We had a lot of well-known actors and actresses who turned around and did the same thing in southern California.

The average person does not have that benefit. Many States do not allow much more than a modest exemption for the homestead. We said, under Senator KOHL's amendment, that we would create a $100,000 nationwide cap on homestead exemptions. I think it makes sense. But, frankly, it did not survive. Now, under this bill that is before us, if you have owned property for more than 2 years, then there is virtually no limitation. It is up to the States to decide again. I think that is a mistake. This is a departure.

The other area is clinic violence. This gets to a point that is worth speaking to. Senator SCHUMER of New York brought this point forward. If someone is engaged in violence at an abortion clinic—and it has happened; we have seen it happen—and they are found to be responsible in a court of law for their wrongdoing, and they are held responsible for damages to be paid, in many cases all they need to do is file for bankruptcy, and they are virtually discharged of all responsibility on that debt.

I think that is wrong. By a vote of 80–17 the Senate agreed with me. But Senator SCHUMER's amendment did not survive this conference, and it is not going to be considered. As a result, we find a situation where those who are guilty of clinic violence, people such as Randal Terry and Flip Benham, have usurped our clinic protection laws by feigning bankruptcy.

Did you know, even student loans are not dischargeable under bankruptcy under chapter 13? Yet these folks have been engaged in violent activity, found guilty by a jury of their peers, and use this bankruptcy code as a shield.

I tried to add some provisions in the Senate bill that gave the bankruptcy judges more flexibility in applying a means test for moderate-income debtors. It was stricken from the bill.

Who actually files for bankruptcy? It is interesting to see. You might think that it is the high rollers, but it turns out to be some of the poorest people in America. The average income of people filing for bankruptcy over the last 20 years continues to go down. That income, at this point, is below $25,000 a year for the people who are filing for bankruptcy.

Why do people file for bankruptcy? Some of them may have calculated how they can come out ahead by doing it. But look at what happens in most cases. Older Americans are less likely to end up in bankruptcy than younger Americans, but when they do file, 40 percent of them give medical debt as the reason for filing. Elizabeth Warren of Harvard tells us, overall, 46 percent of the people filing for bankruptcy do so because of medical debt.

We spent a lot of time on the Senate floor talking about hospital bills and prescription drug bills. When people become so overwhelmed by a catastrophic illness, they end up in bankruptcy court.

Both men and women are more likely to declare bankruptcy following divorce. That is the second instance in people's lives, divorces. They, of course, end up with a situation where people have to file because they can't make ends meet. The spouse who has the responsibility of raising the children may find herself in bankruptcy court.

The way this bill is written, there is not adequate protection for those women. That is why most women's groups, as well as consumer groups, oppose this bill as written.

Of course, unemployed workers who lose their jobs; that is the third instance that drives people into bankruptcy court.

So you find over and over again that the catastrophic events of a lifetime force people into bankruptcy court. Most of them do not go there because they want to. They are forced into that situation. This bill does not help them, does not protect them. Basically, it provides more power for the creditors and less power for the debtors who find themselves in these awful circumstances.

An interesting thing has occurred since this debate started 3 or 4 years ago. There was a lot of complaints about the number of bankruptcy filings going up in America in a time of prosperity. That was true. It is a strange thing, but people get overconfident and they get too far in debt, and they can't get out or they run into one of the three catastrophes that I mentioned. But something has happened.

In the first 37 weeks of this year, 861,846 people filed for bankruptcy. That is a lot of people. But basically the number of bankruptcy filings is on a decline. According to a study by the University of Maryland's Department of Economics, ''Remarkably, there have been 138,000 fewer personal bankruptcies in the current year to date than during the corresponding period of 1998, a cumulative decline of greater than 15 percent in the per capita bankruptcy rate.'' So that says to us, the explosive growth of bankruptcies has turned around. I cannot tell you exactly why, but that was one of the reasons why we even started discussing this bill.

It was told to us by the White House and the chief of staff of the President, John Podesta, the President will veto this bill as written. I hope he does. I hope those who support meaningful bankruptcy reform, balanced bankruptcy reform, will realize we cannot go through this process on a slam dunk, take it or leave it; Republicans will meet and decide—and Democrats will be left out—and pass a bill of this significance.

The groups that oppose this include not only the AFL-CIO, representing working men and women across America, but also NARAL, the National Partnership for Women and Children, the Leadership Conference on Civil Rights, the Religious Action Center, the Consumers Union—virtually every one of them—75 law professors from across the country who have tried to take an objective look at this bill, even groups from my own home State of Illinois. The Bankruptcy Center, which over the past 3 years has filed over 6,000 bankruptcies on behalf of their clients, has written me with their concerns about the bankruptcy bill.

So it comes down to this. We have a lopsided bill, perpetrated as part of a political process around here that is becoming too common, where they take a bill that has nothing to do with bankruptcy and shove the contents into it. And the Republicans dictate what will be in it and do not even invite the Democrats to participate in the discussion, bring it to the floor and say: Take it or leave it.

The credit industry that wants this bill refuses to concede the most basic concessions to us when it comes to the disclosures they would make on credit card solicitations and the monthly statements on the bill so that consumers can make a rational choice about how much credit they can handle. They basically have told us: This is it; take it or leave it.

I think we should leave it. It is time for us as a Nation to say, yes, we can reform bankruptcy but do it in a balanced fashion.

I salute my colleague, the Senator from Minnesota, for his leadership. I hope colleagues on both sides of the aisle will think twice and join me in voting against cloture. This bill needs further debate, the debate it did not have in conference committee. I hope we can come up with a better work product.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I will take 1 minute because our leader is on the floor.

I thank Senator DURBIN. I only heard part of what he said but the conclusion especially. I will build on what he said, except I won't do it as well.

Whatever Senators think about the content of this bill—and there is much to question—it is a much worse bill than the bill passed by the Senate before. Senator DURBIN has more credibility on this because he worked on the original bankruptcy bill and was responsible for much of its content which was much better than what we have seen in recent days. This is a mockery of the legislative process. Any minority, any Senator, anyone who loves this institution, can't continue to let people in the majority take a conference report, gut it, and put in a whole different bill, and then bring it here and jam it down everybody's throats. I certainly hope Senators who care about this legislative process, and who care about the rights of the minority and

about a public process with some accountability, will at least vote against cloture. I think that is almost as important an issue as the content, in terms of the future of this body. I am not being melodramatic about it. I hope we will have good support in the vote against cloture, much less the vote against the final product. I hope tomorrow we will be able to stop this.

I yield the floor.

The PRESIDING OFFICER. The minority leader.

LABOR-HHS NEGOTIATIONS

Mr. DASCHLE. Mr. President, I will use my leader time to depart from the ongoing colloquy with regard to the cloture vote on the bankruptcy bill to talk about the status of negotiations on the Labor and Education bill that has been the subject of a good deal of discussion over the last several days.

I think the headlines give us the current state of affairs with regard to the bill probably as succinctly as any headline can. The Washington Post, from a front page story above the fold this morning, simply stated the fact: ''Budget Deal is Torpedoed by House GOP. Move by leadership angers negotiators on both sides.'' That was the Washington Post.

The Los Angeles Times said it as well in their headline: ''GOP Leaders Scuttle Deal in Budget Battle.'' They go on to describe exactly what happened in the budget battle on education over the course of the last several days.

The Washington Times had virtually the same headline, which simply read: ''House Leaders Spike Deal On Budget.''

The only word missing in most of these is the word ''education.'' Because that is what the budget was about, the fight was about what kind of a commitment to education we ought to be making in this new fiscal year, now well underway. This is the last day of October. Of course, the fiscal year began on the first day of October. While the headlines didn't say it, this is what they were talking about.

We had a bipartisan plan that was worked out over the last several days with great effort on the part of Chairman STEVENS and Chairman YOUNG, certainly on the part of Senator BYRD, Senator HARKIN, Congressman OBEY. They worked until 2:30 Monday morning to craft what arguably could have been the single most important investment we will make in education in any fiscal year in the history of the United States. That is quite a profound and dramatic statement. I don't think it is hyperbole because we were prepared to invest more in education, more in smaller classes, more in qualified teachers, more in modern school buildings, more in afterschool programs, with a far better accountability program, with increased Pell grants, with more investment for children with disabilities and those preparing to go to college than we have ever made in a commitment to education in our Nation's history. That was what was on the table.

Of course, as we negotiated these very complicated and controversial provisions dealing not only with education but whether or not we can protect worker safety, all of those issues had to be considered very carefully. It was only with the admonition of all the leaders to give and to try to find a way to resolve our differences that we were able ultimately to close the deal, resolve the differences, and move forward with every expectation that the Senate and House would then be in a position to vote on this historic achievement as early as Tuesday afternoon.

That is what happened.

So instead, today we are debating cloture on the bankruptcy conference report when we could have had an incredible opportunity to put the pieces together to give children real hope, to give school districts all over this country for the first time the confidence they need that they can address the myriad of problems they are facing in education today; to say, yes, we are going to commit, as we have over the last couple years, to ensure we have the resources to reduce class size and to hire those teachers and to break through, finally, on school modernization and school construction. We could have addressed the need for 6,000 new schools with the modernization plan that was on the table when the collapse occurred.

I come to the floor dismayed, disheartened, and extraordinarily disappointed that this had to happen, that the House leaders, House Republican leaders, spiked a deal that could have created this historic achievement.

What do we tell the schoolteachers? What do we tell the students? What do we tell all of those people waiting patiently and expectantly, who are hoping we could put partisanship aside and do what we came here to do. Forget the rhetoric, forget the conflicts, forget all the things we were supposed to forget in bringing this accomplishment about.

I don't know where we go from here, but this is part of a pattern. It isn't just education. There is an array of other issues. And perhaps this is an appropriate day to remind my colleagues of, once again, the GOP legislative graveyard. We can put up, perhaps, another tombstone today.

I think we can still revive this. Somehow I think there is still a possibility that we can do this. I don't know if it will happen this week—I don't know when it will happen—but I can't believe we are going to turn away from having accomplished what we could have accomplished with all of this.

Everybody understands that we may not have another chance. I am not prepared to put education into the legislative graveyard Republicans have created. But there isn't much chance we are going to deal with pay equity this year. There is no chance we are going to deal with campaign finance reform.

Let us make absolutely certain that when we come back early next year, we enact the Patients' Bill of Rights. That is a tombstone for the 106th Congress. Hate crimes, judicial nominations, the Medicare drug benefit, gun safety: all are tombstones to inaction. All are a recognition of the failure of this Congress to come to grips with the real problems our country is facing, a realization that now there is not much we can do anything about, except to rededicate ourselves to ensure that we will never let this Congress again take up issues of this import and leave them buried in the legislative graveyard.

Let us hope that we can revive school modernization and smaller class size. Let us hope that somehow, in the interest of doing what is right—we recognize how close we were Monday night, we recognize how important it is that we not give up, we recognize how critical it is that something as important as education will not be relegated to this legislative graveyard, or any other. Let us hope that in the interest of our children, in the interest of recognizing the importance of bipartisan achievement in this Congress, that we will do what is right, that we will take these headlines and turn them around and change them into headlines such as ''GOP Leaders And Democratic Leaders Agree on Budget Deal,'' or ''Democratic Leaders And Republican Leaders Agree To Historic Education Achievement''; with editorials that would say to the effect that, at long last, we have given children hope all over this country and we have given schools the opportunity to reduce their class size and improve educational quality without exception.

That is still within our grasp. I must say, the tragedy of all tragedies would be, somehow in the name of partisanship and in the name of whatever competition some may feel with the administration on this or any other issue, that we fail to do what is right; we fail to make a commitment that we know we can; and that we end up building more monuments to the lack of progress and real commitment to the issues about which people care most.

Mr. President, I come to the floor with the expectation that we can overcome the obstacles that remain and we truly can make a difference on education in this Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I thank the minority leader for his words.

I yield 10 minutes to the Senator from North Dakota, Mr. DORGAN.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

LEGISLATION LEFT UNDONE

Mr. DORGAN. Mr. President, I listened to my colleagues today—Senator FEINGOLD, Senator DURBIN, Senator WELLSTONE, and now the Democratic

leader, Senator DASCHLE—talk about a number of different issues. I want to take a moment to discuss my disappointment, as we near the end of this legislative session, with what this Congress could have accomplished, what we could have done for the American people, and what we left undone.

I note that in this Presidential campaign Governor George W. Bush talks about his desire to come to Washington, DC, to serve in the White House, and end the partisan bickering. As he says, he wants to ''end all of the partisan bickering.'' Well, it takes two to bicker and it takes two parties to bicker in a partisan way.

We have almost, on occasion, had debate break out in the Senate on some very important issues. But we never quite had that happen this year because we can't get to an aggressive, robust debate on the things that really matter.

My colleagues talked about the bankruptcy bill. How did they do the conference on the bankruptcy bill? One party goes into a room, shuts the door, handpicks their members, and writes it by themselves. It is hard to have bickering, and it is hard to be partisan when one party is doing the work behind a closed door and saying to the other party: Here it is; like it or leave it.

The tradition of debate in this country is the sound of real democracy. The sounds of democracy results from bringing people from all around America into our centers of discussion and debate. From all of those areas of the country—from a different set of interests and concerns, from the hills and the valleys and the mountains and the plains and different groups of people—we have ideas developed and nurtured and then debated.

Someone once said: When everyone in the room is thinking the same thing, nobody is thinking very much.

We have people here who kind of like the notion that you must think the same thing. Apparently, Governor Bush thinks we must all kind of think the same thing; we ought to stop all this disagreement.

Disagreement is the engine of democracy. Debate is the engine by which we decide what kinds of policies to implement and what course this country takes in the future. The issues on which we never quite had the aggressive, robust debate that we should have had in this Congress include education. Do you know that for the first time in decades this Congress didn't reauthorize the Elementary and Secondary Education Act? We didn't pass it. Why? Because it was feared that when the bill was brought to the floor, people would actually offer amendments. Then we would have to debate amendments and vote on amendments. God forbid a debate should break out in the Senate. So the bill was pulled after a short debate. So we let the Elementary and Secondary Education Act lapse. It just didn't get done.

The Patients' Bill of Rights is another issue. We had sort of a mini debate here in the Senate on that because it was judged that there wasn't enough time to allow a robust debate. The Patients' Bill of Rights was not considered significant enough to allow a very robust debate on the different positions of the Patients' Bill of Rights. These, of course, are not just abstract discussions. The issue of whether we need a Patients' Bill of Rights is a very significant issue for a lot of American people who are not only battling cancer, but also having to battle their HMO or insurance company to pay for needed medical treatment.

I have shown my colleagues many times during discussions on the floor of the Senate a picture of Ethan Bedrick. He was born with horrible difficulties. He was judged by his HMO to only have a 50-percent chance of being able to walk by age 5, which means that his HMO said a 50-percent chance of being able to walk by age 5 was ''insignificant.'' Therefore, they withheld payment for the rehabilitative therapy that Ethan Bedrick needed.

An isolated story? No, it goes on in this country all too often, day after day. I have told story after story on the Senate floor about it. We weren't able to get a final vote on this issue. We should have had a vote on the issue of a Patients' Bill of Rights toward the end of the Senate session because we would have had a tie vote, and the Vice President would have sat in that Chair and broken the tie. The Senate would have passed a real Patients' Bill of Rights if given the opportunity to vote again.

Do you know why we weren't able to do that? Because those who run this place didn't want a debate to break out. So they managed the Senate in a way that blocked any amendment from being offered. Since September 22 until October 31, not one Member of the Senate on this side of the aisle was allowed to offer one amendment on the floor of the Senate that was not approved by the majority leader. That is why a real debate didn't break out on the issue of the Patients' Bill of Rights.

The issue of fiscal policy is important in this country because we are now in the longest economic expansion in our country's history, and how to continue it is something we would want to have an aggressive, robust debate on. The majority party said: Well, all of this economic expansion is just all accidental. It didn't really result from anything anyone did.

Well, of course, that is not true. We passed a new economic plan in this country in 1993.

In 1993, we had the largest deficit in the history of this country. This country was headed in the wrong direction, and a new Administration, President Clinton and Vice President GORE, said let's change that; we have a new plan. It was controversial. It was so controversial it passed by one vote in the House and one vote in the Senate. Not one Republican voted for it.

They stood on the floor and said: If you pass this, you will throw this country into a depression, and you are going to cost this country jobs, and you will just crater this country's economy.

Well, we passed it and guess what happened? The longest economic expansion in our country's history. Unemployment is down, inflation is down, home ownership is up, personal income is up, welfare rolls are down, crime is down, every single aspect of life in this country is better because of what we did in 1993.

Now comes George W. Bush and the Republican Party saying: Do you know what we need to do now? We expect budget surpluses in the next 10 years. We need to take a trillion and a half dollars and use it for tax cuts. Let's lock those tax cuts into law right now.

Well, a number of groups have provided some very interesting analyses of this plan. Do you know what the threat is? Providing substantial tax cuts, the bulk of which will go to the top 1 percent, will put us right back in the deficit ditch we were in 8 years ago.

Don't take it from me. The risks of this kind of fiscal policy were described last week by the American Academy of Actuaries, which is one of the most respected nonpartisan organizations of financial and statistical experts. Their report says the Bush plan would probably signal a return to Federal budget deficits around 2015.

I encourage anybody to read their analysis. This is an independent, nonpartisan, respected group that says this tax cut proposal doesn't add up at all; it doesn't add up.

One of the questions is, Do we want to jeopardize the economic expansion that has been going on in this country, the progress we have made in this country, an economic plan that turned this country around? Do we want to jeopardize that with a fiscal policy that doesn't make any sense, that will put us back into the same deficits? Or what about having a debate on the question of Governor Bush's proposal of taking $1 trillion out of the Social Security surplus and using it for private Social Security accounts for younger workers?

This is what Governor Bush said about that:

> . . . and one of my promises is going to be Social Security reform. And you bet we need to take a trillion dollars out of that $2.4 trillion surplus.

I don't know whether Governor Bush knows this, but the trillion he is talking about is already pledged. The reason we talked earlier about putting Social Security surpluses in a lockbox is we need them. The largest group of babies ever born in this country will retire in the next 10, 15, and 20 years. We are saving to meet their retirement needs. That is the $1 trillion. You cannot use it twice. It has been saved to meet the needs of the Baby Boomers, which is what it was designed for, or you can take it away and use it for private accounts for younger workers,

which is what Governor Bush suggests. If that is the case, you will short change Social Security by $1 trillion. You can't count $1 trillion twice.

I simply make the point that on the issue of fiscal policy, we should have had a real debate on the floor of this Senate on fiscal policy. When Governor Bush and others say they don't like the partisan bickering, I don't suppose anybody likes it in those terms. I like robust, aggressive debate. I think that is the sound of democracy in this country.

When people say they have plans to take $1 trillion out of Social Security, I say let's debate that. When they say let's have tax cuts that go to the upper income people and I think that will put the country back in a deficit ditch once again, I say let's debate that. When they say we don't have time to reauthorize the Elementary and Secondary Education Act because somehow it is not important enough, I say that ought to be the subject of aggressive debate in the Senate.

Let's not shy away from debate. Let's understand what good, aggressive, honest debate does for this democracy, and let's have a few debates from time to time on things that really matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa has 10 minutes.

Mr. HARKIN. Mr. President, I was going to speak about the bankruptcy bill and how bad it is for working families, especially the elderly, and talk about how most of the people who are getting into bankruptcy situations are families who have unusually high medical bills. That is true in my State of Iowa, and many of these are elderly people. I will talk about that as we go along.

However, I have to take a few minutes today to follow up on what our minority leader, Senator DASCHLE, just spoke about a few minutes ago. That is the status of the most important bill we have to pass, the education bill.

One day has passed since Republican and Democratic negotiators came to agreement on the health and education appropriations bill for this year. As I said on the floor yesterday, the agreement we reached was a product of long and difficult bipartisan negotiations. Senator STEVENS, Senator BYRD, Senator SPECTER, and I, along with Congressmen BILL YOUNG, DAVE OBEY, and JOHN PORTER, worked for months to craft this agreement. We worked past 1:30 yesterday morning to hammer out the last remaining differences. As I said yesterday, as with any honorable compromise, both sides gave and got. At times, the negotiations got a little heated, but both sides hung in there.

In the end, we came up with a good compromise. Chairman STEVENS and Chairman YOUNG led these final negotiations. They have been charged by their leadership to come to closure so we can conclude our business and pass the bill. That is exactly what they did.

Less than 12 hours after we reached an agreement and our staffs were busily writing the final conference report, a faction within the House Republican leadership, led by Congressman DELAY and Congressman ARMEY, decided to renege on our bipartisan compromise. As I said yesterday, I hope, in the interests of our children and our country, they will reconsider and let the bill go forward.

None of us is happy with everything in this bill. That is what bipartisan compromise is all about. Overall, passing this bill is in our Nation's best interests.

Right now, I will mention a few more details of the agreement we reached to demonstrate to my colleagues and the American people why it is so important. There is a 16-percent increase overall in education; class-size reduction, 35 percent more. That means 12,000 new teachers will be hired across America this next year.

There is a provision I have been working on for 8 years called school modernization. There is $1 billion included for school modernization, the first time we have ever had it. If the Iowa experience is any standard—and I think it will be—this should generate somewhere between $7 and $9 billion in needed school repairs around the country.

Individuals with disability education grants go from $4.9 billion to $6.9 billion, a 40-percent increase, the largest in history, to help our local school districts educate our kids with special needs; also, $250 million in funds to increase accountability and to turn around failing schools. That is almost double what it was before. We had the largest increase ever in Pell grants, to make college affordable to working families. In this bill, 70,000 more kids will be able to get Head Start, bringing the total in our Head Start Program to 950,000 kids.

There is money in there for youth training and youth opportunity grants; a 66-percent increase in money for child care; community health centers, up $150 million to $1.2 billion, meaning 1.5 million more patients can be served next year; the important low-income heating and energy assistance program, $300 million more; Breast and cervical cancer screening, so that women can get the needed preventive health care they need, an $18 million increase; NIH, a $1.7 billion increase, the largest in our Nation's history. Afterschool care is almost double; it means 850,000 children will be served by afterschool programs. Also in the health end, 9,600 more research projects, one of which could bring major medical breakthroughs in cancer, heart disease, Alzheimer's disease, or Parkinson's disease. That is what is in this bill. Forty-two thousand more women would be screened for breast and cervical cancer. That is cost effective and saves lives.

There are a lot of things in this bill that are too important to be destroyed by last-minute partisan politics. As I said, nothing is perfect. The conference agreement has a number of items about which I have concern. For example, at the insistence of Republicans, an important regulation protecting workers from workplace injuries such as carpal tunnel syndrome was delayed yet again. We have delayed these worker protections for 3 years now, and last year's conference report contained explicit language that they would not be delayed any further. Yet as part of the give and take of the final negotiations, language was included to delay implementing this regulation until June 1.

Each year over 600,000 American workers suffer disabling, work-related muskoloskeletal disorders, like carpal tunnel syndrome and back injuries. Employers spend $15 to 20 billion a year just for workers compensation related to these injuries. The estimated annual total cost to workers and the Nation due to ergonomics is a high as $60 billion, according to the Department of Labor. So this is a major problem.

This proposal was initiated under Labor Secretary Elizabeth Dole in the Bush administration 9 years ago. This is not a partisan issue. It is a worker protection issue plain and simple.

Apparently, that is not good enough for Mr. DELAY. He wants to kill this important worker protection outright. I do not see how we can face the 600,000 people who are injured each year and say, ''No, your health and your safety just aren't important enough to be protected.'' How can you say, with a straight face that protecting these workers from serious injury is a ''special interest provision.

So I again urge the House Republican leadership to reconsider their decision to kill this important bill. We had a good, honest bipartisan agreement. Nobody loved every part of it, but it was decided upon honorably and in good-faith.

This is what the American people want and need. They want us to work together in good faith and to come up with a product that is in their best interest. A lot of sweat and debate and compromise went into doing just that. It is late, but it is not too late to bring back our agreement.

I am confident we would have more than enough votes in the House and Senate to pass it. And I have personally been assured by President Clinton that he would sign it as it come out of committee.

We ought to do what is right.

I just learned a few minutes ago that there is a possibility we are going to renege on the agreement that we reached in conference; that the language we adopted there is now being changed to reflect original language that we conferees talked about, fought over, discussed, changed, modified over a period of about—over a period of a couple of months but finally, Sunday night, over a period of about 2 or 3 hours. We finally reached language with which everyone agreed. I am now being told that language is being thrown out. It is being thrown out and

we are going back to the initial language that was the source of the contention.

If that is so then, indeed, we have reached a very bad situation in this Congress. If this is what happens, what it means is when we go to conference with the House and we come up with our compromises and we shake hands on it, we sign our names to it, if you happen to be in the majority, and you want to change it, then tough luck; it means absolutely nothing. We operate on our word around here.

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

Mr. HARKIN. Our word is our bond. When you can't trust people to keep their word, this institution goes downhill. I am afraid that is what is happening now.

The PRESIDING OFFICER. The Senator from Minnesota.

BANKRUPTCY

Mr. WELLSTONE. Mr. President, first of all, let me thank Senator HARKIN for his presentation. Let me thank other Senators who have spoken, both about what has happened to the Labor, Health and Human Services appropriations bill and also about this bankruptcy bill. I say to my colleague from Iowa, to tell you the truth, this is part of the same pattern. He is talking about abuse of the legislative process, talking about a complete breakdown of bipartisanship, a complete breakdown of trust. That is exactly what you have here when you have a State Department bill, a conference report that is completely gutted, not a word in there any longer about it, the only thing left is the number, and then what is put in, instead, is a bankruptcy bill. Democrats were not consulted at all, in an effort to jam it through. That is the same principle.

I would think and hope every member of the minority party who cares about our rights, who cares about an open legislative process, who cares about integrity of the political process, would vote against cloture tomorrow because my colleague is talking about the same process.

It might sound very much like an inside thing to people who are following this. I know everything is focused on the election. But honest to God, American people, it is not. When these kinds of decisions can be made by a few people with no sunlight, no scrutiny, no exposure, you have a real abuse of the process. What can happen is that usually the people who are hurt are the little people.

Let me tell you, the people who are involved in this kind of process, the behind-the-doors process, sticking stuff in in conference committees, gutting conference reports, are folks who are well heeled, who have the lobbyists who know how to work this process for them. But the people who get hurt are not involved at all. That is what I want to talk about. I want to talk about the way in which this conference report, this bankruptcy bill harms the most vulnerable citizens in this country, people who find themselves in desperate economic circumstances.

Please remember, Senators, 50 percent of the people who file for chapter 7 do it because of a medical bill that puts them under. Please remember: There but for the grace of God go I.

You can be as frugal as possible. You can be prudent. You can try to manage your family finances. And then you can have a medical bill that can put your family under. It took my family, my parents, 20 years to pay off a medical bill of years ago. Many people cannot do that. They find themselves in a horrible situation and then as a last resort, in order to rebuild their finances and sometimes just stop the harassment by creditors, in order to get back on their feet, people file for bankruptcy. That is what this piece of legislation is all about—making it impossible for people who, through no fault of their own, find themselves in terrible financial circumstances, unable to rebuild their lives and instead wind up essentially in debt slavery for the rest of their lives.

I think one of the things that has helped us in this debate—because I am confident Senators now see some of the harshness in this legislation—was a May 15, 2000, issue of Time magazine. The cover story was entitled ''Soaked By Congress.'' It deals with this bankruptcy bill.

Although, frankly, not as harsh a version—it was a better version that Time magazine talked about—this article was written by reporters Don Bartlett and Jim Steele, who have, I think, won a Pulitzer for their work. They do great investigative research. It is a detailed look at the true picture of who files for bankruptcy in America.

You will find a far different picture in this Time magazine than the skewed version that has been used to justify this mean-spirited and harsh legislation. This article carefully documents how low- and middle-income families, increasingly headed by a single person, usually a woman, are denied the opportunity of a fresh start if this punitive legislation is passed. I hope Senators will vote against cloture.

As Brady Williams, who is chairman of the National Bankruptcy Reform Commission, notes in the article, the bankruptcy bill would condemn working families:

> . . . to what essentially is a life term in a debtors prison.

Proponents of this legislation have tried to refute the Time magazine article. Indeed, during these final days of debate you will hear the bill's supporters claim that low- and moderate-income debtors will be unaffected by this legislation. Colleagues, if you listen closely to their statements, you will hear that they only claim that such debtors will not be affected by the bill's means test. Not only is that claim demonstrably false, the means test and the safe harbor have been written in a way that will capture many working families who are filing chapter 7 relief in good faith, but it ignores the vast majority of the legislation which still imposes needless hurdles and punitive costs on all families filing for bankruptcy, regardless of their income. Nor does the safe harbor apply to any of these provisions.

You might ask, why has the Congress chosen to be so hard on ordinary folks down on their luck? How is it that this bill is so skewed against their interests and in favor of big banks and credit card companies? My colleague, Senator FEINGOLD from Wisconsin, spoke to that. It is because these families do not have the million-dollar lobbyists representing them before Congress.

They do not give hundreds of thousands of dollars in soft money to the Democratic and the Republican Parties. They do not spend their days hanging outside the Senate Chamber waiting to bend a Member's ear. Unfortunately, it looks as if the industry got to us first. Unfortunately, that is what this is all about.

The proponents of this bill argue that people file because they want to get out of their obligations, because they are untrustworthy, because they are dishonest, because there is no stigma in filing for bankruptcy, but any look at the data tells us otherwise.

In the vast majority of cases—again, 50 percent of the cases—it is a medical bill that has put people under or the main income earner has lost his or her job. There is a sudden illness, a major injury, major medical expenses, someone has lost their job, there has been a divorce, and what we are saying to these people is: We make it impossible for you to rebuild your lives. But when it comes to the lenders and the credit card companies, oh, it is a very different story.

In the interest of full disclosure, something that the industry is not very good at, I want my colleagues to be aware of what the credit card industry is practicing, even as it preaches its sermon of responsible borrowing. After all, debt involves a borrower but also a lender. Poor choices or irresponsible behavior by either party can make the transaction go sour. So how responsible has the industry been?

I suppose it depends on how you look at it. On the one hand, consumer lending is terrifically profitable, with high credit card cost lending, the most profitable of all, except for maybe the higher cost credit such as payday loans. I guess by the standard of responsibility to the bottom line, this credit card industry has done a great job.

On the other hand, if you define responsibility by promoting fiscal health among families, educating on the judicious use of credit, ensuring that borrowers do not go beyond their means, then it is hard to imagine how the financial services industry could be bigger deadbeats.

According to the Comptroller of the Currency, the amount of revolving credit outstanding, the amount of open-ended credit by credit cards being extended increased seven times during 1980 and 1995 and between 1993 and 1997. During the sharpest increase in bankruptcy filings, the amount of credit card debt doubled. It does not sound as if lenders were too concerned about the high number of bankruptcies. At least it did not stop them from pushing credit cards like Halloween candy.

All of us know it: Our children are the ones who are solicited; our grandchildren are the ones who are solicited. It is unbelievable. This industry feels no responsibility, it feels no accountability, and in this one-sided, unjust piece of legislation, there is absolutely no standard they are asked to live up to.

I again say to my colleagues that the case has been made that we have people in the country who are abusing the system, but I have not seen any report that has reported higher than 13 percent, and the American Bankruptcy Institute says 3 percent. So much for that argument.

Then we have an argument that somehow these are people who feel no stigma, feel no shame. I have talked to colleagues—I cannot believe it—and they say: Paul, my gosh, shouldn't people manage their financial affairs, and if they don't, shouldn't they be held accountable? Yes. Pass a piece of legislation that does that, but do not pass a piece of legislation that says to a family which is in difficult, horrible financial circumstances, through no fault of its own, because of a major medical illness or because someone has lost their job or because there is a divorce, do not make it impossible for them to file chapter 7 and then unable to make it through chapter 13 and then essentially live a life of constant debt servitude, a life basically full of debt with no opportunity to rebuild lives.

We are stripping away the major safety net, not just for the poor but for middle-class people as well. That is why so much of the religious community opposes this. That is why so many women and children organizations oppose it. That is why every consumer organization opposes it. That is why the civil rights community is opposed to it.

The argument is then made that this is a reform piece of legislation. How can it be a reform bill when it is so one sided? How can it be a reform bill when it is so punitive? How can it be a reform bill when, in the name of going after abuse—only a tiny percentage of the population—it casts such a broad net and will make it so difficult for so many families, especially middle-income, low- and moderate-income families headed by women to rebuild their lives? And how can it be called ''reform'' when it is so one sided and does nothing whatsoever to call this credit card industry and these lending institutions to accountability?

This legislation is unfortunately perfectly representative of an imbalance of power in America where some people—and I see the Chair is now looking at me. I appreciate that because he extends that courtesy to all of us. I never mean my arguments personally, especially of colleagues I trust at a personal level. In an institutional way, some people march on Washington every day. They are so well connected. They have the lobbyists. They have the money. They make the arguments. They have the prestige. They have the status. And that is what happened here.

Up until this Time magazine expose, there were so many stereotypes and a lot of information about this legislation that was not accurate. As it turns out, it is imbalanced; it is unfair; it is unjust; it is too harsh, too punitive, and it is not right. This piece of legislation should not go forward tomorrow. I have tried to make arguments to defend this proposition, and other Senators have as well.

What Senator FEINGOLD said is true. In a lot of ways, institutionally, not one on one, this is also an example of an industry that has poured a tremendous amount of money into elections, an industry which has tremendous financial clout. What in the world is someone to do when her family or his family is going under because of a medical illness? Fifty percent of bankruptcy cases are filed as a result of that, and we are going to make it impossible for these people to rebuild their lives?

What is someone to do when the low- and moderate-income earners do not have this clout and do not have these connections? What are single-parent homes to do, almost always headed by a woman?

We should pass a bankruptcy reform bill, but this does not represent reform.

One final thing, and I doubt whether I am going to get any Republican support, but I wish I would. I am not making a payback argument, and if I end up behaving differently, then call me a hypocrite, but this is no way to legislate.

In the Senate, minority rights count. You should not be able to take a conference report and then—it is not even a question of putting a provision in, I say to the Chair, that is unrelated to the conference report. In this case, it is a State Department conference report, completely gutted—invasion of the body snatchers—not a word left about the State Department. The only thing left is a bill number. Now it is bankruptcy sent over here. The minority was not even consulted. Senators should vote against cloture for that reason alone because the minority one day is the majority the next and vice versa, and we should respect each other's rights.

Someone can say to me: Senator WELLSTONE, you hypocrite. When you were in the majority, you did exactly the same thing; you, PAUL WELLSTONE, were involved. I do not know of this having been done. I cannot remember. I certainly never did it; never would.

I appeal to my colleagues on the basis of fairness. You might not agree with me on the substantive arguments—although this bankruptcy bill is now worse than it was before; and I went over two provisions that have been taken out—but you might agree with me just in terms of the rights of a legislator and the way in which this process ought to work.

This is an affront to this legislative process. This makes a mockery of this legislative process. This is a reform issue. You wonder why people are so disillusioned and turned off about politics in the country? Here is one good reason why. People do not quite understand how a State Department bill all of a sudden becomes a bankruptcy bill, with a whole new set of provisions put in unrelated to the original bill. And then an effort is made to jam it through here. People do not get that.

It might be clever, I say to the majority leader and others, but it does not meet the test of representative democracy. It does not meet the test of the Senate as a great institution. It does not meet the test of what this legislative process should be all about. It does not meet the test of how we can become good legislators and good Senators. For that reason, I hope colleagues will vote against cloture.

I yield the floor and 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. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

WATER RESOURCES DEVELOPMENT ACT OF 2000—CONFERENCE REPORT

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany S. 2796, the Water Resources Development Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2796), ''to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes,'' having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses that the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. Without objection, the Senate will proceed to

the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 19, 2000.)

EXPORT OF WATER FROM THE GREAT LAKES

Mr. LEVIN. Mr. President, the Water Resources Development Act addresses many of the water resource needs of our nation. But it also includes a provision relating to the export of water from the Great Lakes which needs some clarification. Would the distinguished chairman and ranking member be willing to join Senator ABRAHAM and myself to clarify a few points about this language?

Mr. BAUCUS. Mr. president, I would be pleased to offer information about this provision to my colleagues.

Mr. SMITH of New Hampshire. I am also pleased to discuss this provision.

Mr. LEVIN. First, we need to make it clear that the phrase ''and implementation'' in the findings of subsection(a) does not constitute a ''pre-approval'' of standards which are being developed by the Governors of the Great Lakes States. Would the chairman and ranking member concur that it is not the intent of this provision to grant pre-approval to standards which we have not seen?

Mr. SMITH of New Hampshire. I would concur; it is not the intention of the conferees that this provision be interpreted as granting pre-approval to standards which have not yet been developed and which Congress has not reviewed.

Mr. BAUCUS. I echo the chairman's sentiment.

Mr. LEVIN. Would the chairman and ranking member also concur that it is not the intent of this provision to preempt the need for future appropriate congressional actions in this area?

Mr. BAUCUS. I would concur. This language should not be interpreted as pre-empting the authority of Congress to approve or disapprove an interstate compact, international agreement, or other such mechanisms of implementation which properly fall under congressional authority. it is simply the intent of the conferees to encourage the States to promptly take such actions to implement these standards as fall within their authority for management of the water resources of their respective states and within the authority vested in them by the Water Resources Development Act of 1986 for making decisions regarding diversions of Great Lakes water.

Mr. SMITH of New Hampshire. I concur with the ranking member's interpretation.

Mr. ABRAHAM. On a second matter, this language uses the phrase ''resource improvement'' as one principle in encouraging the states to develop a common conservation standard. This phrase is intended to embody the concept of improvement of the quality of the natural resource, not the development of the resource. Is that the understanding of the chairman and ranking member?

Mr. SMITH of New Hampshire. Yes, as use din this section, the term resource improvement is intended to convey the concept of an improvement to the natural resource. The alternative interpretation would not be consistent with the parallel directive that the standard embody the principles of water conservation.

Mr. BAUCUS. I concur with this interpretation.

Mr. LEVIN. I also wish to thank my colleague from Michigan for joining in the effort to clarify the intent of this provision. I still have reservations as to whether this provision represents the best approach to addressing the issue of water diversion and export which faces the Great Lakes region today, but these clarifications of the intent of the provision relieve some of my concern.

Mr. ABRAHAM. I thank the chairman, ranking member, and my colleague from Michigan. Mr. President, Senator LEVIN has been a leader in the effort to protect the Great Lakes on a wide variety of fronts. Clearly today's work will not completely guarantee the protection of this great resource, but I believe it is a big step in the right direction. I want to thank Senator LEVIN for his help in this matter, particularly for his work to eliminate the likelihood of unintended consequences from this legislation. I look forward to working with him in the future as we fight to protect this great resource.

THE TEN- AND FIFTEEN-MILE BAYOUS FLOOD CONTROL PROJECT

Mrs. LINCOLN. Mr. President, as we complete work on the Water Resources Development Act (WRDA) of 2000, I would like to bring the Senate's attention to a project that is very important to a group of my constituents in Arkansas: the Ten and Fifteen Mile Bayou project. The Ten and Fifteen Mile Bayou project would provide flood control to a poor, rural area in the Mississippi Delta that is oftentimes overlooked while other projects in more affluent, urban areas move forward. The Delta's small farming communities and poor minorities are the constituencies most affected by the constant flooding that this project seeks to prevent. It is vitally important to the future of this Delta region to alleviate these flooding concerns.

I have worked with the St. Francis Levee Board on this important project since my days in the House of Representatives. Unfortunately, the resources of this community are extremely limited and they are unable to meet the cost share requirements of any federal program. Can the distinguished Senator from Montana please explain section 204 of the current WRDA bill dealing with ''the ability to pay'' provision? Specifically, I am interested in hearing how this provision might help projects, like Ten and Fifteen Mile Bayou, that are needed but simply can not meet the cost share requirements.

Mr. BAUCUS. I appreciate your concern about flooding in the Saint Frances River Basin and your frustration with efforts to address this situation. Many communities across the nation simply do not have the financial ability to provide the cost share for Corps studies and projects. Because of this, Congress added an ''Ability to Pay'' provision to the Water Resources Development Act in 1986. This provision, which establishes procedures for reducing the non-federal share of water resource development project costs for distressed communities, has been amended several times subsequently. These procedures, which are set by the Corps through regulation, take into consideration local economic and financial conditions.

This year, the administration's Water Resources Development Act legislative proposal contained an update to the Ability to Pay provision which included expanding its applicability to feasibility studies and additional project types. The Senate Environment and Public Works Committee further expanded the project types eligible and this amendment to the Ability to Pay provision is contained in the Conference Report.

Our intention is that these changes will result in the Ability to Pay provision being used more frequently by the Corps and providing greater relief to communities that cannot meet ''standard'' Corps cost-share requirements. While I am not familiar enough with specifics of the Ten and Fifteen Mile Bayou project to judge the application of the Ability to Pay provision, I would encourage the Corps to pay particular attention to the applicability of the provision to this flood control project.

Mr. SMITH of New Hampshire. I also appreciate the financial hardships faced by communities in West Memphis as well as in many other areas of the country. I also expect that the amendments to the Ability to Pay provision contained in this Conference Reports will increase the Corps' use of this provision and, thereby, the relief provided to communities with financial hardships.

In addition, it is important for Congress to monitor the implementation of the Ability of Pay provision. To accomplish this, the Senate Environment and Public Works Committee, of which I am the chairman and Senator BAUCUS is the ranking member, will hold oversight hearings next year on the Corps' historical and current performance as it relates to the application of Ability to Pay provisions of the Water Resource Development Act.

Mrs. LINCOLN. I thank my colleagues for their comments and I look forward to working with them on this important matter.

PROGRAMMATIC REGULATIONS

Mr. GRAHAM. Mr. President, I rise today with my colleague from Florida to clarify one section of the Water Resources Development Act of 2000. Section 2(h)(3)(C)(ii) includes language from the House clarifying the applicability of programmatic regulations.

One of the most important elements of the formula for success which brings us to the floor of the Senate with this conference report today is the open process used by the Corps of Engineers to develop consensus positions on a course of action. I want to clarify my colleague's views on the language in this section. Do you believe that this language will limit the public's ability to participate and comment on the development of project implementation reports, project cooperation agreements, operating manuals, and any other documents relating to the development, implementation, and management of individual features of the Plan?

Mr. MACK. This language is not intended to affect the public's ability to participate and comment on the development of project implementation reports, project cooperation agreements, operating manuals, and any other documents relating to the development, implementation, and management of individual features of the plan. In addition, this language is not intended to expand any one federal agency's authority. I share your view that the Corps' open process is one of the most important aspects in building the consensus which makes this Comprehensive Everglades Restoration Plan strong.

Mr. GRAHAM. Mr. President, Members of the 106th Congress, thank you for this opportunity to stand before you today as a proud Member of this body. We are on the verge of passing historic, comprehensive legislation to restore America's Everglades.

This is a dream I have had since early childhood when I lived on the edge of the Everglades in a coral rock house. I witnessed the manipulation of the Everglades from a serene, river of grass into a funnel built for human purposes.

Over the decades, I joined other Floridians in finding that moment of truth—the moment when we realized that our actions were destroying this ecosystem which is the very heart of Florida. I was proud to start the ''Save Our Everglades'' program in Florida during my tenure as Governor.

I thank everyone who took that giant leap with me in 1983 to begin to do what appeared to be impossible—to make the Everglades look more like it had in 1900 than it did in 1983 by the year 2000.

We have taken several first steps.

In 1992 the Kissimmee River restoration project demonstrated that we can, in fact, restore portions of a damaged ecosystem.

In 1996 the critical projects authorization allowed us to begin on projects with an immediate benefit to the environment. That same year, we began the ''restudy'' of America's Everglades.

I offer my thanks again to the people of Florida who toiled endlessly to produce the consensus document, the Comprehensive Everglades Restoration Plan which is the basis for the legislation we will pass today.

Names like Colonel Joe Miller, Dick Pettigrew, Stu Appelbaum, and Tom Teets and will ring in Florida's history as people who sacrificed personal gain for the future of this project, people who built consensus where none could even be visualized, and people whose expertise built the very foundation of our plan to restore the Everglades.

Today, we are ending one chapter and beginning another in the history of America's Everglades.

We are officially ending the chain of events that we began in 1948 with the authorization of the Central and Southern Florida Flood Control Project which, according to the National Parks and Conservation Association, brought the parks and preserves of the Everglades to a prominent spot on the list of the 10 most endangered in the country.

We are beginning the chapter of restoration.

After 17 years of bipartisan progress in the context of a strong Federal-State partnership, we are seeing the dream that many of us shared in 1983 become reality.

I want to speak for a moment about this unprecedented Federal-State partnership. I often compare this unique partnership to a marriage.

If both partners respect each other, and pledge to work through any challenges together, the marriage will be strong and successful. Today, we are again celebrating the strength of that marriage.

This legislation contains several provisions born out of the respect that sustains this marriage.

It offers assurances to both the Federal and State governments on the use and distribution of water in the Everglades ecosystem.

It requires that the State government pay half the costs of construction.

It requires that the Federal Government pay half of the costs of operations and maintenance. Everglades restoration can't work unless the executive branch, Congress, and State government move forward hand-in-hand. The legislation before us today accomplishes this goal.

With the vote we are about to take—to pass the Water Resources Development Act of 2000—we are truly making history.

We will be one step closer to restoring the damage done when humankind had the arrogance to second-guess nature.

With this project we are doing nothing less than turning back time, returning this dying place to the wild splendor of its past and in doing so, ensuring its future.

If we accomplish the historic goal of restoring America's Everglades then today will be one our children and grandchildren will remember.

They will look back on this as the day that our generation had the courage and the foresight to make a commitment to restoring one of America's richest national treasures.

In the words of President Lyndon B. Johnson:

> If future generations are to remember us with gratitude rather than contempt, we must leave them more than the miracles of technology. We must leave them a glimpse of the world as it was in the beginning, not just after we got through with it.

Today is the day we will make the choice to leave a glimpse of America's Everglades as they were when we first found them for future generations—an undisturbed river of grass, unmatched in serenity and beauty.

Mr. BAUCUS, Mr. President, I rise to join Senator SMITH in supporting the conference report on S. 2796, the Water Resources Development Act of 2000.

This conference report authorizes projects for flood control, navigation, shore protection, environmental restoration, water supply storage, and recreation. The bill also modifies existing projects and directs the Corps to study other proposed projects. All projects in this bill have the support of a local sponsor who is willing to share the cost of the project.

Even a brief review of the projects demonstrates the importance of passing this conference report.

A number of the projects are needed to protect our shorelines, along oceans, lakes, and rivers.

Several of the navigation projects will ensure that our ports remain competitive in the increasingly global marketplace.

Furthermore, the studies authorized in the bill will help us make informed decisions about the future use and management of our water resources.

Let me mention two projects that are very important for my state of Montana.

First, the authorization for design and construction of a fish hatchery at Fort Peck. This fish hatchery will make good on a long awaited promise of the Fort Peck project; namely, more recreational and economic opportunities for the folks in eastern Montana.

Fort Peck Lake is one of the greatest resources in our state. It not only plays a major role in power production and water supply, but it is an increasingly important center for recreation. People from around the state—as well as from around the world—come to Fort Peak for our annual walleye tournaments.

The local community really puts a lot of effort into these tournaments. And they've put a lot of effort into the Fort Peck hatchery. Communities across eastern Montana have raised funds for the matching share of the project's feasibility study.

And the state legislature has contributed as well. It passed a special warm water fishery stamp to help provide additional financial support for the hatchery.

The fish hatchery will help to ensure the continued development of opportunities at Fort Peck Lake. And it will also represent a major source of jobs and economic development for this part of the state.

I would also like to point out the bill's provision relating to the exchange of cabin sites leased by private individuals on federal land at Fort Peck Lake.

The lake is surrounded by the Charles M. Russell National Wildlife Refuge. Yet, there are many private in holdings in the refuge.

This provision will allow the cabin leases to be exchanged for other private land within the refuge that has higher value for fish, wildlife, and recreation. By consolidating management of the refuge lands, the provision will reduce costs to the Corps associated with managing these cabin sites. It will also enhance public access to the refuge.

This exchange is modeled on a similar project near Helena, Montana, which Congress authorized in 1998. It represents a win-win-win for the public, the wildlife, and the cabin site owners.

Mr. President, let me further mention a truly landmark provision in this conference report. In addition to the usual project authorizations contained in a water resource development act, this report represents Congress with a historic opportunity. Title VI of this report contains the Comprehensive Everglades Restoration Plan.

Restoration of the Everglades has been many years in the making. In the 1970s, the State of Florida became concerned that the previously authorized Central and South Florida project was doing too good a job at draining the swampy areas of the state. In fact, it was draining the life out of the Everglades.

Our colleague from Florida, Senator GRAHAM, who was then Governor GRAHAM, began the effort to restore the Everglades by establishing the ''Save Our Everglades'' program. And Senator GRAHAM has worked tirelessly to achieve restoration ever since. The comprehensive plan to restore this invaluable ecosystem that is contained in the conference report before us is the culmination of his work.

In closing, I would like to thank the chairman of the Environment and Public Works Committee, Senator SMITH, for his unwavering commitment to making this Water Resource Development Act a reality. Further, I would like to thank him for the personal investment he made in keeping this conference report focused on projects central to the mission of the Corps.

I know he was under tremendous pressure to open this report up to any number of inappropriate provisions, but he remained steadfast in his opposition and he should be commended for this. So, too, should his staff. They worked tirelessly to craft a Water Resources Development Act of which they can be proud.

Finally, I would like to thank Jo-Ellen Darcy and Peter Washburn of my staff for their dedication to this legislation. A tremendous amount of work goes into a Water Resources Development Act. So, I particularly acknowledge and commend the effort that Jo-Ellen and Peter devoted to making this conference report such a success.

Mr. SMITH of New Hampshire. Mr. President, at this time, I ask unanimous consent that the conference report be adopted, the motion to reconsider be laid upon the table, and that any statements relating to this measure be printed in the RECORD.

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

The conference report was agreed to.

Mr. SMITH of New Hampshire. Mr. President, I wish to make a couple of comments on the legislation that we just adopted. This has been a long time coming. It is a culmination of some—actually, the Everglades portion of this legislation took a year of work. We had a hearing in January at the Everglades. This is a very exciting time for those of us who have worked on this. I want to briefly give a quick overview of that and recognize a few people who have been involved.

This is a good bill. I am proud that we passed it. It is fiscally responsible. It recognizes our obligation to preserve one of the most important and endangered ecosystems in the Nation, if not the world: America's Everglades.

I thank the Senate conferees—Senators WARNER, VOINOVICH, BAUCUS, and GRAHAM—for their hard work and dedication.

I thank Chairman SHUSTER and the House conferees for their cooperation as well.

I am proud of this bill. This is not a bill that includes numerous unnecessary projects. The committee established some tough criteria, and we stuck to those criteria.

I am proud that the conference agreement on WRDA 2000 does not contain any environmental infrastructure projects. As those who requested such projects know, the committee has a longstanding opposition to including environmental infrastructure projects in WRDA.

Unlike what has happened in the past, the Senate conferees were able to hold firm, and the House accepted our position, for which we are grateful.

These types of projects, in my view, should be funded through the State revolving loan funds and not by the Army Corps of Engineers.

From the time this WRDA process began, the committee received requests to authorize more than 300 new projects. By holding firm to our criteria—the conference report to WRDA—we were able to authorize 30 new projects, 57 new feasibility studies, and a number of other project-related provisions.

As I said before, Senator BAUCUS and I are committed to examining next year the infrastructure issue, and other issues, relating to the operation and management of the Corps. This will include hearings on the Corps reform.

Let me talk specifically for a moment on the Everglades. There is an important element that separates this WRDA bill from all others and is what makes it so historic.

This bill includes our landmark Everglades bill, S. 2797, the Restoring the Everglades, an American Legacy Act. It has been clearly demonstrated that the Everglades are in great peril. Without acting now, we could lose what is left of the Everglades in this generation. But Congress is prepared to move forward and make good on a problem the Federal Government greatly contributed to causing.

It has been clearly demonstrated that the Everglades is a Federal responsibility. Lands owned or managed by the Federal Government—four national parks and 16 national wildlife refuges—compromise half of the remaining Everglades and will receive the benefits of restoration.

The State of Florida has stepped up to the plate thanks to Gov. Jeb Bush and his legislature in Florida, on a bipartisan basis.

The Everglades portion of WRDA has broad bipartisan support. Every major constituency involved in Everglades restoration supports our bill. These bipartisan and wide-ranging supporters include the Clinton administration, Florida Governor Jeb Bush, the Seminole Tribe of Florida; industry groups, including Florida Citrus Mutual; Florida Farm Bureau, the American Water Works Association; Florida Chamber of Commerce; Florida Fruit and Vegetable Association, Southeast Florida Utility Council, Gulf Citrus Growers Association, Florida Sugar Cane League, Florida Water Environmental Utility Council, Sugar Cane Growers Cooperative of Florida, Florida Fertilizer and Agri-chemical Association; and many environmental groups. To name just a few: National Audubon, National Wildlife Federation, World Wildlife Fund, Center for Marine Conservation, Defenders of Wildlife, National Parks Conservation Association, the Everglades Foundation, the Everglades Trust, Audubon of Florida, 1000 Friends of Florida, Natural Resources Defense Council, Environmental Defense, and the Sierra Club. It is pretty unusual to bring the support of that many people on a major environmental bill to the Senate. I am proud to do it.

The Everglades bill is a great model for environmental policy development. It is cooperative. It is not prescriptive. It is bipartisan, and it is flexible and adaptive. We can change things. If we don't like what is going on, if something isn't working, we pull back and try something new. It establishes a partnership between the Federal Government and the State and many other private groups as well.

Our colleagues in the House suggested improvements to the Everglades piece, and we made those. While it didn't always look promising, we will see this bill become law before we go home, in the very near future, when the House passes it and the President signs it.

Last June, Bruce Babbitt called this ''the most important environmental legislation in a generation.'' I agree. It took a lot of courage to work this through. This passed the Senate 85–1. It has broad support. And it will pass overwhelmingly in the House very shortly.

It is almost dangerous to mention anyone because once you mention one, you are sure to omit some very important contributors. So with apologies to anybody I miss, I thank the late Senator John CHAFEE because he started this committee's efforts on the Everglades. I went to Florida in January. I told the folks in Florida this would be my highest priority and there wouldn't be much difference between John CHAFEE and Bob SMITH on saving the Everglades. I kept my word.

I thank the Senate conferees: subcommittee Chairman GEORGE VOINOVICH, Senator JOHN WARNER, ranking member Senator MAX BAUCUS, Senator BOB GRAHAM from Florida.

I also thank Senator CONNIE MACK and Governor Jeb Bush of Florida for their unrelenting efforts on the Everglades. Time and again we talked with them. We kept working with them throughout.

From the administration, Carol Browner has been very helpful throughout this affair.

I thank Mary Doyle and Peter Umhofer, Department of Interior; Joe Westphal, Michael Davis, and Jim Smythe from the Department of the Army; Gary Guzy from EPA; Stu Applebaum, Larry Prather, Gary Campbell and many others from the Corps of Engineers; and Bill Leary from CEQ.

From the State of Florida, I thank David Struhs, Leslie Palmer, and Ernie Barnett from the Florida Department of Environmental Protection; Kathy Copeland from the South Florida Water Management District.

I thank the Senate legislative counsel: Janine Johnson, Darcy Tomasallo, and Tim Trushel.

I thank the following staff members: from Senator GRAHAM's staff, Catharine Cyr Ranson and Kasey Gillette; Senator MACK's staff, C.K. Lee; Senator VOINOVICH's staff, Ellen Stein and Rich Worthington; Senator WARNER's staff, Ann Loomis; Senator BAUCUS' staff, Tom Sliter, Jo-Ellen Darcy, Peter Washburn, and Mike Evans; and my staff, Dave Conover, Ann Klee, Angie Giancarlo, Chelsea Henderson Maxwell, Stephanie Daigle, Tom Gibson, and Jeff Miles.

It was a great bipartisan effort. In spite of many roadblocks over the past several months, we were able to work this bill through in a bipartisan manner. I am truly grateful to everyone on both sides of the aisle for their tremendous support through a very difficult effort. There were literally hundreds of projects that the staff had to pore through, and we did it.

When we look back on our careers, when we leave here and look back and say, What did I accomplish? I think we will be very proud of the vote to save the Everglades. I guarantee it. It will be right up there at the top. Once those Everglades are safe, we can say, when the time came to stand up and make a difference, we did.

When I became chairman, I promised to make the Everglades my highest priority. I did. I also said we needed to look forward to the next generation, rather than the next election, in environmental policy.

We are now poised to send the President a conference report on WRDA that has the support of every major south Florida stakeholder, the State of Florida, and the administration. Restoration of the Everglades is not a partisan issue. We proved it. The effort has been bipartisan from the start.

I congratulate my colleagues for daring to take the risk to support this noble effort to save a national treasure. We need to view our efforts as our legacy to future generations, and this will be this Senate's legacy to future generations.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

ENERGY POLICY

Mr. MURKOWSKI. Mr. President, 4 years ago, a theme in the election was, ''It's the economy, stupid.'' Well, that is true in this election, but there is something a little different: ''It's the energy crisis, stupid.''

The Vice President would have us think the economy is the issue that will get him elected President, that he and President Clinton came up with a plan to tax gasoline and Social Security benefits, and once he cast the tie-breaking vote to increase your taxes and my taxes, interest rates came down, the stock market went up, and the economy prospered.

The Vice President and the Democrats conveniently ignore the fact that the economy had already begun posting strong growth before Clinton-Gore took office. That may sound like old hat, but the President's budget plans never once mentioned a balanced budget as a policy goal at that time. Instead, those budget plans predicted annual deficits of $200 billion a year well into the future.

As my colleagues and good friends Senator DOMENICI, Senator GRAMM, and others pointed out last night, the credit for our booming economy ought to be given to a couple of people. Specifically, one is Dr. Alan Greenspan and the Federal Reserve, for a sound fiscal policy that prevented the onset of inflation. As we know, Greenspan has been around a long time.

Further, a Republican Congress deserves some credit for putting controls on Federal spending and turning the deficit into a surplus.

I will not spend a lot of time today on that subject because I rise to talk about energy. I want to talk about the reality that the administration has no energy policy. The energy policy in this country, for what it is worth, is dictated by America's environmental community. They accept no responsibility for the reality that we are short of energy and becoming more and more dependent on foreign sources of oil.

As we look at our economic prosperity over the past few years, there is a growing concern that it might be coming to an end, partially for lack of a sound national energy policy. Look at the American consumers out there. They are finding themselves under the shadow, if you will, of a failed energy policy. We have crude oil prices which are remaining solidly at $30 plus a barrel but, remember, it was March of 1999 when it was $10 a barrel.

The administration blames ''Big Oil.'' They use the word ''profiteering.'' Well, is the implication then, in March of 1999, that ''Big Oil'' was giving us a gift of some kind, selling it to us at $10 a barrel or was it supply and demand? Who sets the price of oil? Is it Exxon? Is it British Petroleum? Is it Phillips? It certainly is not. We all know that.

It is from where we import the oil. It is Saudi Arabia. It is Venezuela. It is Mexico. They are setting the price of oil. Why? Because we are approximately 58 percent dependent on imported oil. We are addicted to oil. We don't produce enough, so we pay the going price. If we don't pay it, somebody else will.

Why has it gone up? The general economy of the world has gone up; Japan has recovered; Asia, more demand. We are a society that runs on energy. All our communications, our expansion, our e-mail, computers, all are dependent on energy.

So American consumers are finding themselves in the shadow of a failed energy policy, with crude oil prices at $30 plus a barrel—they have been up as high as $37 a barrel—and gasoline prices averaging well above $1.50 a gallon for most of the year. In some areas, they have gone up to nearly $2 a gallon.

The sleeper here is natural gas. Americans haven't awakened yet to the reality that natural gas prices have more than doubled. Ten months ago, they were at $2.16 per thousand cubic feet of gas. Deliveries in November of this year, just beginning tomorrow, were at one time in the area of $5.30 to $5.40. I would remind my colleagues that 50 percent of the homes in this country heat on natural gas.

U.S. consumers have dealt with electricity price spikes and supply disruptions. All you have to do is go to San Diego, California; you will get a flavor for what is happening. You can't get a permit to put in a new generating plant. Consumers are facing brownouts as a consequence and prices are going up. People are closing their businesses. They cannot pay, in many cases, the rates that are being charged in that particular area of California.

Heating oil inventories—which we are concerned about, particularly in

the Northeast, where there is such dependence on heating oil—are at the lowest level in decades. In fact, when the President proposed the sale of SPR—30 million barrels from the SPR reserve in Louisiana—and then initiated an action to order the transfer of that crude oil into refineries, we suddenly found that we had another problem—we didn't have refining capacity; they were operating at about 96-percent capacity. We took this additional oil out of SPR and we found out we could not refine it without displacing other imported oil.

This was testimony in the House and Senate. In the hearing I chaired as Chairman of the Energy and Natural Resources Committee, testimony indicated there would be, out of the 30 million barrels, about 3 to 5 million barrels of distillate. We asked the Under Secretary of Energy: How much heating oil are you going to get out of 3 to 5 million barrels of distillate? Frankly, he didn't know.

There was another hearing going on in the House, and witnesses from the same Department of Energy indicated there would be approximately 250,000 barrels. A 1-day supply of heating oil in the Northeast is about a million barrels. So it is somewhere between a half day's supply and 2 to 3 days' supply. This was all a result of the falderal associated with the release of the SPR.

The objective of the SPR release was to increase the heating oil supply in the Northeast Corridor. Did it occur? It clearly did not. Was there manipulation of price? To some extent. It was $37 and it dropped down to $33, or thereabouts, on that announcement. But it clearly didn't increase the supply of heating oil, and that was the objective. Currently, I am told the price of crude oil is $33.75 a barrel, but let's remember from where we started—$37 per barrel.

The nice thing about what the OPEC nations have done is they have gradually assimilated a price increase so it doesn't hurt so bad. Remember, it was $10 a year ago. Then it got up to $17, $18, $19, and then up to $22. At $22, OPEC advised us they were going to put in a floor and a ceiling. The ceiling was $28; the floor was $22. That worked so well they moved it up beyond $28. Now they are in the low thirties. Well, the sky is the limit.

The point is that the administration has no energy policy. Now, how long has it been going on? We point fingers here, and it is easy to do, particularly in a political season. But we really don't have a strategy. We need a strategy because the cost of increasing energy, the shortage of energy, and the increased dependence on imports is a compromise of our national security.

Moving from national security back to the economy, economists now believe the increased energy prices could very well lead to a slowdown in consumer spending. Consumers are likely to cut back in other areas to offset the higher prices they are paying for gasoline, electricity, home heating oil, or natural gas.

Recently, Fed Chairman Alan Greenspan indicated rising energy costs would push up the cost of consumer goods. Why? Delivery costs are associated with movement of these goods to market. We are seeing that as a reality. Wholesale prices, in September, increased nine-tenths of 1 percent, led mainly by a 3.7-percent increase in energy costs. Where I come from that is called inflation. You don't need an economic degree to see it; the math is simple. Higher natural gas prices, plus higher oil prices, plus higher gasoline and fuel oil prices, plus higher electric prices, equals renewed increasing inflation. We haven't poked that tiger in the ribs for a long time, but we are poking him now and he is waiting. Somebody called him a ''sleeping dragon'' who has been sitting around for the better part of a decade. As we poke him in the ribs with higher energy prices, we are going to face reality, which is an impact on the economy both here and in countries around the world.

A significant number of Fortune 500 companies have reported third quarter earnings under expectations, largely due to the increased energy costs. Have you taken an airplane ride lately? You can't figure out the fares, whether you fly Saturday before 2 o'clock or Thursday after 5 o'clock; but there is a surcharge included in your fare. If you want a Washington, DC, taxi, there is a surcharge. There is a sticker in the cab that says the fares are up 50 cents or so because of the cost of gas. Every business is facing these costs. Fuel costs put the brakes on truckers' profits. Furniture manufacturers have cut earnings projections. We have seen truckers come into Washington and drive trucks across the lawn, and they were talking about the high price of diesel fuel. They say high gas prices are restraining shoppers from buying furniture and other big-ticket items.

Well, many analysts predict high oil prices could reduce U.S. economic growth by as much as 2 percent this year. What does that mean? Over the next five years, that would mean a loss in the GDP of about $165 billion a year, and about 5.5 million fewer jobs. We face an increasing balance of payments from our ever-increasing reliance on foreign oil. That is a balance of payments deficit.

Our trade deficit hit an all-time record in July of this year, pushed by the cost of imported oil. One-third of our trade deficit is the cost of imported oil. We also face the prospect of, frankly, an unreliable electric supply, weakening the backbone of the new economy.

Most people don't realize that high tech means high electric usage, more computers, more e-mail, more taxes. From where will it come? Add these together and you have the makings of an economic slowdown, meltdown—call it what you like. The economic engine, which is responsible for the incredible prosperity of the past decade, can begin to slow down and is beginning to slow down. Nobody really wants to face up to that because times have been good, but everything changes and nothing stands still.

What has been the response of the administration? Well, the administration, of course, wants to take credit for the economic growth of the past few years, but they try to duck the responsibility for the impending energy crisis that threatens to bring this period of prosperity to an end. The administration has consistently restricted our energy supply and forced higher energy prices on consumers. They have specifically opposed domestic oil exploration and production. We have 17 percent less domestic oil production—less production—since President Clinton and Vice President GORE took office.

We have had 136,000 oil and 57,000 gas wells close in this country since 1992. We have tremendous coal reserves in this country, but the administration is opposed to the use of that coal. We haven't built a new coal fired plant since the mid-1990s. EPA permits make it absolutely uneconomic. You can't get permits. The nuclear industry, which is about 20 percent of the power generated in this country, is choking on its own waste.

We are one vote short in this body of overriding a Presidential veto. Every Member who voted against it should remember that. You have a responsibility. If you don't get your electric power from nuclear, from where are you going to get it? You better have an answer because when constituents have a brownout, they are going to ask why.

There is a court of appeals liability case associated with the nuclear industry where the court said that the Federal Government made a contractual commitment to take the waste in 1998. The Federal Government chose to ignore that liability to the taxpayers of somewhere in the area of $40 billion to $80 billion. Nobody bats an eye here. What is the sanctity of a contract? I know it means something to the occupant of the chair and to me. The court said the Government should keep its word, but the Government simply ignores it. Somebody else is going to have to take care of it on another watch.

They also threaten to tear down hydroelectric dams out West. There is a tradeoff. Tear down those dams, and we don't have navigation on those rivers. Where do we put the barge traffic? We put the traffic back on the highways. What is the implication of that? You can move an awful lot of material on barges. If you move that same material on highways, you are going to create traffic problems, pollution problems, and so forth.

We ignored electric reliability and supply concerns with the brownouts in San Diego. We have had no new generation of transmission facilities, yet the consumer market has grown. The Vice

President has said he will even go further to restrict new oil and gas exploration and production. In Rye, NH, on October 21, 1999, Vice President GORE made the following statement:

I will make sure that there is no new oil leasing off the coast of California and Florida and then I will go much further. I will do everything in my power to make sure that there is no new drilling off these sensitive areas, even in areas already leased by previous administrations.

That doesn't sound very good, when most of our oil is coming from the Gulf of Mexico.

On energy, there is a clear distinction between the two sides. The difference between Vice President GORE and Governor Bush could not be more clear. The Bush proposal is $7.1 billion over 10 years; the Gore proposal is 10 times that amount, some $80 to $125 billion. The Vice President has said he has an energy plan that focuses not only on increasing the supply but also working on the consumption side.

The facts show the Vice President doesn't necessarily practice what he preaches. The Vice President wants to raise prices and limit supply of fossil energy which makes up over 80 percent of our energy needs. By discouraging domestic production, the Clinton-Gore administration has forced us to be more dependent on foreign oil, placing our Nation's security at risk. All we have to do is witness the growing influence of Iraq, Saddam Hussein, and the Middle East as a result of our increasing dependence on foreign oil. How can we be an honest broker in the Middle East peace process when we are beholden to Israel's sworn enemy, Saddam Hussein, to keep our citizens warm this winter?

We currently import 600,000 barrels a day from Iraq. The Vice President's only answer is to give solar, wind, and biomass energy technologies that are not widely available or affordable. We have expended $6 billion in a combination of grants and subsidies for alternative energy. I am all for these alternative energies, but they still consist of less than 4 percent of our energy. It is incomprehensible to me that we would fail to recognize that we have to rely on our conventional sources—oil, natural gas, hydroelectric, and nuclear. The Vice President seems to have forgotten these basic sources of energy. As a matter of fact, we need a mix of all of the above.

In contrast, Governor Bush would put together a comprehensive energy policy for America that uses the fuels of today to get the technologies of tomorrow. The energy policy would contain three major components: First, increased domestic production of oil and natural gas to meet today's consumer demands for energy; second, increased use of alternative fuels and renewable energy to help us transition into the technologies of tomorrow; third, improve energy efficiency to save American consumers money and reduce emissions of air pollutants and greenhouse gases. Governor Bush would encourage new domestic oil and gas exploration right here at home. He has said: The only way to become less dependent on foreign sources of crude oil is to explore here at home.

Just opening the ANWR Coastal Plain in my State increases domestic production capability by better than a million barrels a day, more than twice the amount we currently import from Iraq.

I ask unanimous consent to have printed in the RECORD an article that was in the Christian Science Monitor on October 18 of this year. They did a poll on the issue of whether or not ANWR should be open.

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

[From the Christian Science Monitor, Oct. 18, 2000]

PUBLIC WANTS SUVS TO GUZZLE LESS

(By John Dillin)

ABSTRACT

Americans, by a 2-to-1 margin, say that with gasoline prices up, they favor government action that would force automakers to boost the gas mileage of the wildly popular sport utility vehicles. Congress has firmly resisted attempts to boost mileage requirements for SUVs.

Growing public pressure to boost fuel requirements for SUVs comes as something of a surprise. For more than a decade, the vehicles have been family favorites for hauling everything from plywood from Home Depot to camping gear on holiday outings.

The federal government cooperated with this sleight of hand by classifying minivans and SUVs as ''trucks,'' even though they were being used primarily as passenger vehicles. Since the standard for trucks was only 20.7 miles per gallon, that overall requirement was easier for manufacturers to meet.

A majority of adults say they'd be willing to drive a more fuel-efficient vehicle to conserve energy. But many also support drilling in Alaskan wildlife refuge.

The United States could soon get tough on those big, gas-hungry SUVs.

Americans, by a 2-to-1 margin, say that with gasoline prices up, they favor government action that would force automakers to boost the gas mileage of the wildly popular sport utility vehicles. Congress has firmly resisted attempts to boost mileage requirements for SUVs.

With petroleum imports rising, voters also say they now support opening the Arctic National Wildlife Refuge in Alaska for oil and gas exploration. Throwing open ANWR to oil drillers is a sensitive issue in this year's presidential race. Republican George W. Bush is for it. Democrat Al Gore is against it.

The newest Christian Science Monitor/TIPP poll explored a broad range of energy issues with a cross-section of 803 likely voters in the US.

The survey probed the public's willingness to use mass transit and to buy smaller cars to save energy. It looked at who is to blame for rising prices. And it tested the willingness of Americans to use military power to keep oil resources flowing in times of crises.

There were some sharp differences—often along party lines—in the Monitor/TIPP poll, as well as broad agreements.

Some of the findings:

Voters agree that the primary culprits in higher prices for energy are the members of the Organization of Petroleum Exporting Countries (OPEC). Big oil companies and government policy makers also bear a heavy responsibility, voters say.

By nearly a 3-to-1 margin, voters say that US friends such as oil-rich Saudi Arabia and Kuwait are not doing enough to keep energy prices down.

The No. 1 priority for dealing with US energy needs should be the development of new technologies, voters say. New technologies are more important than either boosting US oil production or conservation.

Growing public pressure to boost fuel requirements for SUVs comes as something of a surprise. For more than a decade, the vehicles have been family favorites for hauling everything from plywood from Home Depot to camping gear on holiday outings.

But the hefty vehicles drink lots of fuel. The mighty Lincoln Navigator that tips the scales at 5,746 pounds, for example, gets just 12 miles per gallon in the city, 17 on the highway, with its 5.4-liter V8 engine.

The more-popular Chevy Blazer—a mere two tons of steel, rubber, and plastic—gets just 15 miles per gallon in the city, 18 on the highway.

Under federal rules, automobiles from each manufacturer are required to get an overall average of 27.5 miles per gallon—twice what cars got in 1974. But as carmakers have downsized and lightened their vehicles to meet this standard, consumers who wanted more size and power switched to minivans and SUVs.

The federal government cooperated with this sleight of hand by classifying minivans and SUVs as ''trucks,'' even though they were being used primarily as passenger vehicles. Since the standard for trucks was only 20.7 miles per gallon, that overall requirement was easier for manufacturers to meet.

The impact on America's gasoline usage, however, was significant. Average vehicle performance in the US has fallen steadily from a high 26.2 m.p.g. in 1987 to only 24.6 m.p.g. in 1998. Today's shortages and higher gas prices are one result.

On this issue—as on several energy issues—there are often differences of opinion among voters.

A college history professor in California, one of those surveyed in this poll, says she is sympathetic with those who buy the larger vehicles.

''It's not really fair to criticize SUV owners,'' she says. ''I don't care what anybody's driving as long as they're not driving over me. . . . Sometimes people need a larger car for extenuating circumstances.''

While 63 percent of likely voters in this poll favored boosting the mileage requirement for SUVs, 29 percent disagreed.

Sentiment to boost mileage requirements was highest among liberals (77 percent favor higher mileage rules), Democrats (74 percent) and those between the ages of 55 and 64 (75 percent). Support for changing the law was weakest among conservatives (only 54 percent favor a change), younger Americans (59 percent), and Republicans (52 percent).

Another surprise was the solid support (54 percent to 38 percent) for oil drilling in the Arctic National Wildlife Refuge. ANWR's coastal plain could hold as much oil as Alaska's highly productive Prudhoe Bay.

Yet the refuge also shelters polar and grizzly bears, caribous, wolves, and many other species in one of the most pristine areas in the US.

Raghavan, Mayur, president of TIPP, a unit of TechnoMetrica Market Intelligence, conducted the poll for the Monitor. Mr. Mayur says divisions are sharp on this issue:

''To drill or not to drill the Arctic refuge is the same as asking are you a Bush supporter or a Gore supporter.''

Other poll responses:

Who is responsible? The public points the finger primarily at OPEC (34 percent), but oil companies (28 percent), and the government's energy policies (21 percent) also shoulder the blame for rising prices.

A sales representative in Conyers, Ga., says higher prices should have been foreseen with a growing economy, and Gore should have tackled it. Ultimately, she said, ''oil companies are probably more responsible than anyone else.''

Will fuel prices hurt? Voters are almost evenly split on whether rising fuel prices will hurt the economy. About 49 percent say yes, 45 percent say no.

Bush or Gore on energy? When it comes to energy policy, voters think Governor Bush will probably do a better job making sure the US has sufficient energy supplies. They prefer him on this issue by 44 percent to 33 percent over Vice President Gore.

Pay more for cars? By 57 percent to 38 percent, Americans say they would pay $1,000 more for a comparable vehicle that had greater fuel efficiency.

Buy smaller cars? Most Americans—75 percent—say that with rising gas prices, they would be willing to drive smaller cars to achieve better mileage.

Use mass transit? By a 62 percent to 27 percent margin, Americans say they would use mass transit or car pool to save fuel.

Use military force? In times of crisis, Americans would be willing to use U.S. military power to keep oil supplies flowing—but the issue is clearly divisive. Those favoring military force (48 percent) are nearly equaled by those who oppose (43 percent).

Mr. MURKOWSKI. Let me read a portion:

Another surprise was a solid support (54 percent to 38 percent) for oil drilling in the Arctic National Wildlife Refuge. ANWR's coastal plain could hold as much oil as Alaska's highly productive Prudhoe Bay.

I think that is a significant indication of the public posture and the change. As we have noted for some time, Vice President GORE is very much opposed to opening this area. This body, in 1995, passed legislative action authorizing the opening of ANWR, but the President vetoed that action. We have today a clear indication of support from a majority of Americans who now favor responsible drilling in the Arctic National Wildlife Refuge.

For the sake of keeping this matter in balance, I remind my colleagues there are 19 million acres in that area. Out of that 19 million acres, which is about the size of the State of South Carolina, 9 million acres has been set aside in a refuge, 8.5 million acres has been set aside in a wilderness. This is in perpetuity. Congress left out 1.5 million to be determined at a future date whether it should be open for exploration. Geologists say it is the most likely area in North America where a major oil field might be discovered, and there might be as much as 16 billion barrels in that field. That would equate to what we import from Saudi Arabia for a 30-year period of time. Some of the environmentalists say it is only a 200-day supply. Isn't that in error? That is assuming all other oil production in the world stops.

Prudhoe Bay came on about 23 years ago. It has been producing about 20 percent of the total crude oil produced in this Nation for that period of time. They said it was only going to produce 10 billion barrels. It has produced 12 billion barrels so far and still produces a million barrels a day.

The prospects of finding oil domestically, in the volumes we are talking about, in this small sliver of the Coastal Plain are very good. As a consequence, it is rather comforting to note that a distinguished periodical such as the Christian Science Monitor should conduct an independent poll and find that 54 percent of Americans solidly support opening up ANWR for drilling; 38 percent are opposed.

One other point that deserves consideration has been underplayed by the media and underplayed by the administration. That is the situation with regard to natural gas. Governor Bush's energy plan is more than just increasing the domestic supply of oil. He would also expand access to natural gas on Federal lands and build more gas pipeline. Even the Vice President has said natural gas is vital for home heating and electricity and fuel for the future. Mr. President, 50 percent of U.S. homes, or 56 million homes, use natural gas for heating. It provides 15 percent of the Nation's electric power; and 95 percent of our new electric power plants will be powered by natural gas as a fuel, partially of choice but partially of necessity. You cannot build a coal-fired plant; you cannot build a nuclear plant; you cannot build a new hydroelectric plant. Where are you going to go? You are going to go to natural gas. You can get a permit. But all the emphasis of the electric industry is towards natural gas. Putting on more pressure increases the prices, as I said, from $2.16 a year ago to just over $4.50 today. The ratepayers are going to be paying this. They just have not seen it yet. It has not been included in your electric bills, but it will be very soon, and you will feel it in your heating bill.

The administration has refused to allow exploration or production of natural gas on Federal lands. There are huge areas of the overthrust belt in Oklahoma, Montana, Wyoming, and Colorado that have been off limits. The administration has withdrawn about 60 percent of the productive area for oil and gas discoveries since 1992.

The difficulty we are having here is, as they put Federal lands off limits to new natural gas production, we find ourselves with simply no place to go other than the offshore areas of Texas and Louisiana and the offshore areas of Mississippi and Alabama as the major areas of OCS activity. My State of Alaska and California are off limits; the East Coast is off limits. They have withdrawn huge areas from our Forest Service—roadless areas. They have put on a moratorium from OCS drilling until 2012 in many areas. The Vice President would even cancel existing oil and gas leases. Where is the energy going to come from?

The Vice President said during his first debate:

We have to bet on the future and move away from the current technologies to have a whole new generation of more efficient, cleaner energy technologies.

I buy that, and so does the American public. But he forgets to be specific: Where? How? Why? How much? Where are you going to get the energy?

I think we all agree in this case our energy strategy should include improved energy efficiency as well as expanded use of alternative fuels and renewable energy. But we are still going to need energy from oil, natural gas, hydroelectric and nuclear, and we are not bringing these other sources into the mix.

The Vice President said he would make a bet. He will bet on diminishing the supply of conventional fossil fuels such as oil and natural gas. That is his bet, that you would like that; that you would be more than willing to pay higher prices for energy and make renewables more competitive. You would like that. He will support higher energy taxes, just as he did in 1993 when he cast the tie-breaking vote in this body to raise the gasoline tax.

This is in his book ''Earth In The Balance.'' Clearly, he wants to raise energy prices to effect conservation. But the reality is, as we put more central controls on energy use, he would have us set a standard for each part of your everyday life. He would tell you what kind of energy you could use, how much of it you could use, how much you would have to pay for it. That is part of it. That is in his book.

By contrast, Governor Bush would harness America's innovation to use the energy resources of today to give us the technologies of tomorrow. Governor Bush will set aside the up-front funds from leasing Federal lands for oil and gas, so-called bid bonuses, to be earmarked for basic research into renewable energy. Production royalties for oil and gas leases will be invested in energy conservation and low-income family programs such as LIHEAP and other weatherization assistance.

Using new tax incentives, Governor Bush will expand the use of renewable energy in the marketplace, building on a successful experience in the State of Texas. As a result of Governor Bush's efforts on electricity restructuring, Texas will be one of the largest markets for renewable energy, some 2,000 new megawatts.

Governor Bush will maintain existing hydroelectric dams and streamline the FERC relicensing program. We know the current administration wants to take down some of the dams in the Pacific Northwest. Governor Bush will responsibly address the risks posed by global climate change through investing in getting clean energy technologies to the market.

The Vice President would rather have us ratify and implement a costly and flawed Kyoto Protocol that puts the United States at an economic disadvantage.

Some of us remember the vote we had here with respect to climate change and the Kyoto Protocol—the Byrd/Hagel Resolution. I think it was 95–0. The administration asked for our opinion. We are a body of advice and consent. We gave our advice. I think that vote pretty much indicates a lack of consent. That particular proposal exempts the largest emitters of greenhouse gases, China and India.

In conclusion, the bottom line is there is a clear contrast between the candidates on the subject of energy policy. The Vice President wants to raise prices to limit supply of fossil energy which makes up currently over 80 percent of our energy needs. We wish it were less, but that is the reality. He wants to replace it with solar, wind, biomass—technologies that are promising but they are simply not available or affordable at this time.

Governor Bush will expand domestic production of oil and natural gas, ensuring affordable and secure supplies, reducing energy costs, and keeping inflation at bay. Governor Bush will use the energy of today to yield cleaner, more affordable energy sources of tomorrow.

The choice for consumers is very clear.

Let me leave you with one thought with regard to our foreign policy. Currently we are importing about 600,000 barrels a day from Iraq. I know the occupant of the chair recalls in 1991 and 1992 when we fought a war, the Persian Gulf war, we had 147 American service personnel who gave their lives in that war, with 427 wounded; we had 23 taken prisoner. How quickly we forget.

Now we are over there enforcing, if you will, an aerial blockade, a no-fly zone. We have flown over 300,000 sorties, individual missions, enforcing the no-fly zone over Iraq. We have bombed; we have fired; we have intercepted. Fortunately, we have not suffered a loss. But what kind of foreign policy is it where we buy his oil, put it in our airplanes, and go over and bomb him? I leave you with that thought, and I yield the floor.

The PRESIDING OFFICER (Mr. ALLARD). The distinguished Senator from Iowa is recognized.

BANKRUPTCY

Mr. GRASSLEY. Mr. President, we had an opportunity to listen to 2 hours of debate and speeches from some on the other side of the aisle earlier this afternoon trashing a piece of legislation and the process connected with that legislation that originally passed the Senate 83–14 earlier this year.

I have heard the Senator from Minnesota and others complain about the process of getting the bankruptcy bill to the floor. It seemed to me, as I listened to what he said that it is almost an unbelievable thing for him to say that. The Senate passed the bankruptcy bill after weeks of debate and after disposing of literally hundreds of amendments. The Senator from Minnesota objected to going to the conference committee in the regular order. We tried to do things in the regular way, but he was one of those Senators who blocked our efforts to get to conference.

I think the speeches we have heard this afternoon, particularly from the Senator from Minnesota, are misleading. It is very misleading for Senator WELLSTONE to pretend he is not the reason for this bill not moving in the regular way and then to find fault with the unconventional way in which we finally did it.

Also, looking at that process, there are few conference committees around here that have an equal number of Democrats and Republicans. This conference committee had three Democrats and three Republicans. So obviously Democrats had to sign the conference report, or we would not even have it before us. But that is the way this process has been—not only this year but last year and the year before and the year before.

We have been trying to bring about badly needed bankruptcy reform. It has been done in a bipartisan way. The best evidence of that bipartisanship, both from the standpoint of substance and the standpoint of the process, is the 83–14 vote by which the original bill passed the Senate and Democrats signing the conference report that is now before us. So I am glad we finally have a chance to get to debate on the merits of the bankruptcy reform conference report.

Today is Halloween. That is an appropriate day to take the bill up because of our liberal friends who have tried to dress the bankruptcy bill in a scary costume in a tired effort to frighten the American people for crass political purposes. The fact is, the bankruptcy reform bill we are going to vote on tomorrow will do a lot of good for the American people and for the economy.

Remember, we are talking about 1.4 million bankruptcies. Remember, we are talking about a very dramatic explosion of bankruptcies just in the last 6 or 7 years. Remember, the last time we had bankruptcy reform, there were about 300 thousand bankruptcies filed per year.

That is up to 1.4 million. It is a cost to the economy for every working family in America of paying $400 per year more for goods and services because somebody else is not paying their debt.

I want to summarize a few things that this bill will do that my colleagues may not know about as a result of the disinformation campaign waged by our liberal opponents.

Right now, for instance, farmers in my State of Iowa, and for that matter in Minnesota and all across the country, have no protections against foreclosures and forced auctions. That is because chapter 12 of the bankruptcy code, which gives essential protections for family farmers, expired in June of this year.

Why did chapter 12 expire leaving farmers without a last-ditch safety net? The answer is that chapter 12 ceased to exist because the Senator from Minnesota blocked us from proceeding on this bankruptcy bill we have before us.

The bankruptcy bill will restore chapter 12 on a permanent basis. Never again will Iowa farmers or even Minnesota farmers be left with no defense against foreclosures and forced auctions. Congress will fail in its basic responsibilities to the American farmer if we fail to restore chapter 12 as a permanent part of the bankruptcy code.

The bankruptcy bill does more for farmers than just make protections for farmers permanent. The bankruptcy bill enhances these protections and makes more Iowa farmers, more American farmers, and even more Minnesota farmers eligible for chapter 12. The bankruptcy bill lets farmers in bankruptcy avoid capital gains taxes. This will free up resources that would have otherwise been forced to go to the Federal Treasury, that would otherwise go down the black hole of the IRS, to be invested in farming operations.

We have a real choice. The Senate can vote as the Senator from Minnesota wants us to vote and the Senate can kill this bill, or we can stand up for American farmers and Minnesota farmers. We can do our duty and make sure that family farms are not gobbled up by giant corporate farms. We can give our farmers a fighting chance. I hope the Senate will stand up for our farmers. I hope the Senate does not give in to the bankruptcy establishment that has decided to fight bankruptcy reform no matter who gets hurt, including the Iowa farmer, the Minnesota farmer—the American farmer.

What else is in this conference report? The bankruptcy bill will give badly needed protection for patients in bankrupt hospitals and nursing homes. About 10 percent of the nursing homes in America are in bankruptcy, so this is a real problem for senior citizens of America. The Senate protected these people by unanimously adopting an amendment which I offered. Again, my colleagues may be unaware of the importance of this provision because the opponents of bankruptcy reform do not want us to realize what killing the bankruptcy reform bill will really do for those people who are in bankrupt nursing homes.

I had hearings on patients in bankrupt nursing homes. As my colleagues know, Congress is trying to put more money into nursing homes through the Medicare replenishment bill. Because we have so many nursing homes that are in bankruptcy, the potential for harm is very real.

Through the hearing process in committee, I learned of a situation in California where a bankruptcy trustee simply showed up at a nursing home on a Friday evening and evicted the residents. The bankruptcy trustee did not provide any notice that this was going

to happen. He literally put these frail, elderly people out into the street and changed the locks so they could not get back into the nursing home. The bankruptcy bill that we will vote on tomorrow will prevent this from ever happening again. If we do not stand up and say that the residents of nursing homes cannot just be thrown out into the street, then Congress will have failed in its duty to the senior citizens of America.

Again, we have a choice: We can vote this bill down and tell nursing home residents and their families that they can just go fly a kite. I hope the Senate is better than that. I hope the Senate stands for nursing home residents and not for inside-Washington liberal special interest groups that are trying to make a case against this bill but just cannot make a case against the bill. We have not heard them talking about helping farmers through chapter 12. We have not heard them talk about helping nursing home residents through the provisions that are in the Patients' Bill of Rights for nursing home residents.

There is more to this bill. The bankruptcy reform bill contains particular provisions advocated by Federal Reserve Chairman Alan Greenspan and by Treasury Secretary Larry Summers. I hope the Senator from Minnesota takes note of those two people being appointed by the President of the United States, Larry Summers being a member of this administration as Secretary of the Treasury, to whom some from the other side of the aisle ought to listen.

These provisions will strengthen our financial markets and lessen the possibility of domino-style collapses in the financial sector of our economy. According to both Chairman Greenspan and Secretary Summers, these provisions will address significant threats to our prosperity, the very prosperity that their candidate for President is out talking about every day saying it ought to be protected.

Yet again, we have a choice: We can strengthen our financial markets by passing this bill, or we can side with the liberal establishment and fight reform, no matter what the cost is to our society, our economy, the farmers, or the people in nursing homes.

The American people want us to strengthen the economy, not turn a deaf ear to the pleas for help from the Chairman of the Federal Reserve Board and from the Treasury Secretary. I hope the Senate decides to vote to safeguard our prosperity, not put it at risk.

The Senator from Minnesota said he wanted us to learn more about the bankruptcy bill. I do, too. Once we look at this bill in its totality I am confident that the Members of this body will see this is a responsible approach, that we will then do the responsible thing: We will vote for cloture, and then we will also do final passage.

There is an issue about how the bankruptcy bill will impact people with high medical expenses. Earlier this year, I addressed this very issue, but I want to reassure my colleagues who have remaining questions about this that we have taken care of the problems they have legitimately raised. I do not find fault with their raising them; I only find fault with the fact that we have taken care of them and they have not found it out yet. Before the vote tomorrow morning, I want them to find it out. I want the Senator from Minnesota and I want my friend and colleague from the State of Iowa who raised this issue to be aware of it as well.

My friend from Iowa was quoted in the Des Moines Register Sunday as saying about this bill: I am not for it. I think it's a bad bill. He talked with bankruptcy lawyers who said that it will hit hardest those who rack up big bills due to medical problems.

As to the Time magazine article that was referred to earlier by the Senator from Minnesota which alleged that medical expenses drove some of the families profiled into bankruptcy, I would just say that this is flat out wrong.

To the extent any person in bankruptcy has medical expenses, the bankruptcy bill deals with this issue in two ways.

The General Accounting Office to look at the provisions of this bill from the point of view of medical expenses. You can see from this report that came from the General Accounting Office that all medical expenses that are deducted in determining whether you have the ability to go to chapter 7 or chapter 13. The bill is very clear health care expenses are covered because of ''other necessary expenses'' include such expenses as charitable contributions, child care, dependent care, health care, payroll deductions, life insurance, et cetera. All of these are used in determining your ability to repay your debts.

So anybody who comes to the floor of the Senate and says that we do not take medical costs into consideration in determining this—those colleagues have not read the bill.

There is one additional thing. Somebody can make a case that this does not take care of all of the instances. I do not know how much clearer it can be. But we still have application to the bankruptcy judge, under special circumstances, to argue any case you want to of something that should be taken into consideration in your ability to repay debt. Medical expenses, obviously, fall into that category if this provision is not adequate. But I do not know how much clearer it can be than when you say medical expenses are things that are deductible in making your determination of ability to pay.

Several Senators have also, today, made reference to the issue of whether we need to modify the bankruptcy laws to prevent violent abortion protesters from discharging their debts in bankruptcy court. Now the fact is, our current law already prevents this from happening.

I am releasing today a memo to me from the nonpartisan Congressional Research Service that says, without a doubt, no abortion protester has ever, ever gotten away with using bankruptcy as a shield. So I hope my colleagues listen to this nonpartisan source and not the partisan political statements that were made yesterday on the Senate floor in regard to this.

I want to put this in the RECORD, Mr. President, so I know that this is clearly stated. I ask unanimous consent that this memo be printed in the RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,
LIBRARY OF CONGRESS,
Washington, DC, October 26, 2000.

MEMORANDUM

To: Hon. Charles Grassley,
From: Robin Jeweler, Legislative Attorney, American Law Division.
Subject: Westlaw/LEXIS survey of bankruptcy cases under 11 U.S.C. §523.

This confirms our phone conversation of October 25, 2000. You requested a comprehensive online survey of reported decisions considering the dischargeability of liability incurred in connection with violence at reproductive health clinics by abortion protesters.

The only reported decision identified by the search is Buffalo Gyn Womenservices, Inc. v. Behn (In re Behn), 242 B.R. 229 (Bankr. W.D.N.Y. 1999). In this case, the bankruptcy court held that a debtor's previously incurred civil sanctions for violation of a temporary restraining order (TRO) creating a buffer zone outside the premises of an abortion service provider was nondischargeable under 11 U.S.C. §523(a)(6), which excepts claims for ''willful and malicious'' injury. The court surveyed the extent and somewhat discrepant standards for finding ''willful and malicious'' conduct articulated by three federal circuit courts of appeals. It granted the plaintiff's motion for summary judgment and denied the debtor/defendant's motion to retry the matter before the bankruptcy court. Specifically, the court held:

''[W]hen a court of the United States issued an injunction or other protective order telling a specific individual what actions will cross the line into injury to others, then damages resulting from an intentional violation of that order (as is proven either in the bankruptcy court or (so long as there was a full and fair opportunity to litigate the question of volition and violation) in the issuing court) are ipso factor the result of a 'willful and malicious injury.' ''—242 B.R. at 238.

Mr. GRASSLEY. In other words, once again, just to make it very clear the Congressional Research Service has searched every known case, and I have here, as my colleagues can read, the only case that is available, in which the result is that an abortion protester wasn't able to discharge his debts. The court was very clear that they were not able to get a discharge for that purpose.

Mr. President, I see my friend from New Jersey, who is on the other side of the aisle but very supportive of our legislation, who needs time because he supports this legislation from our side of the aisle. So I am going to quit at this point. I ask if I can have the floor back after he has finished.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. I ask unanimous consent to do that, so I can defer to the Senator from New Jersey right now.

Mr. ENZI. Reserving the right to object——

Mr. GRASSLEY. I will ask this way, that when the Senator from New Jersey has finished, to give the Senator from Wyoming the floor, and then me, because I want to continue presenting our case on the bankruptcy reform.

The PRESIDING OFFICER. Is the Senator from Iowa yielding time to the Senator from New Jersey? The Republicans control the time.

Mr. GRASSLEY. Yes. I intend to do that.

The PRESIDING OFFICER. How much time——

Mr. GRASSLEY. How much time does the Senator need?

Mr. TORRICELLI. Twelve minutes.

Mr. GRASSLEY. Twelve minutes.

The PRESIDING OFFICER. Without objection, 12 minutes are yielded to the Senator from New Jersey.

Mr. TORRICELLI. I thank the Chair.

BANKRUPTCY

Mr. TORRICELLI. Mr. President, for the last 4 years, my colleague, Senator GRASSLEY, has shown extraordinary patience and considerable leadership in bringing this institution towards fundamental and fair reform of the bankruptcy laws. It has not always been a popular fight, but it is unquestionably the right thing to do for consumers, for business, and perhaps most importantly, for small businesses, family-owned businesses, that are often victimized by abusers.

Everyone, I think, generally agrees, within reason, that there is a need for bankruptcy reform. The question, of course, has been how to do that. In the last Congress, we came extremely close to bipartisan reform. Having come so close in the 105th Congress, I inherited the role as the ranking member of the subcommittee with jurisdiction, and I felt some optimism that we could succeed.

Since that time, working with Senator GRASSLEY, I think we have dealt with most of the critical issues. He has been extremely cooperative. Indeed, Members on both sides of the aisle have had suggestions, changes, most of which have been incorporated. Overwhelmingly, Senators who had problems with the bill and individual changes have been accommodated in both parties.

So today we bring to the floor the culmination of 2 years of work, of refining something that had been worked on for the 2 years before that—4 years—with many Members of the institution, and overwhelmingly Members who have voted for it.

Is it perfect? No. Were I writing bankruptcy reform by myself, there would be differences. But none of us writes any bill by ourselves.

The critical question is: Is it fair and is it a balanced bill? Unequivocally, the answer to that question is yes.

Will it improve the functioning of the bankruptcy system without doing injury to vulnerable Americans who have need, legitimate need, of bankruptcy protections? Absolutely, yes.

For those reasons, this bill deserves and, indeed, clearly has overwhelming bipartisan support in the Senate.

What has fueled this broad and deep support among Democrats and Republicans in the House and the Senate have been the facts, an overwhelming misuse and expansion of bankruptcy. In 1998 alone, 1.4 million Americans sought bankruptcy protection, a 20-percent increase since 1996, during the greatest economic expansion in American history, with record employment, job growth, income growth, a 20-percent increase in bankruptcies, more staggering, since 1980, a 350-percent increase in the use of bankruptcy laws.

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

The result of these abuses of the system has meant that just 30 percent of petitions under chapter 13 require a repayment plan. Overwhelmingly, people have discovered, contrary to the history of the act and good business practices, they can escape paying back these debts, although they have the means to do so, and escape so by simply filing under a different chapter.

This is the essence of the bill. Simply making this adjustment, moving many or some of these 182,000 people back into repayment plans, could save $4 billion to creditors. This isn't somebody else's problem. That $4 billion gets paid. If the bankruptcy affects a carpenter, a family owned masonry business, a home building company, it can put them out of business, or the cost gets passed on to someone else who buys the next house. If it is the mom and pop store on main street, it can put them out of business or they absorb the cost. But even if it is a major financial institution, with many credit card companies losing 4 or 5 percent of revenues to bankruptcy, it gets passed on to the next consumer.

This $4 billion is not the problem for some massive company faraway that can afford to absorb it. It is us. We are all paying the bill. The American consumer is absorbing this money from the abuse of the bankruptcy system—often those least able to absorb it, small businesses, family owned businesses, and consumers.

This is why, with these compelling facts and the logic of this reasoning, that the Senate passed a very similar bill by a vote of 83–14 from both parties, across philosophical lines, in an overwhelming vote. That is the bill we bring back today.

It is charged by critics of the bill that this will deny poor people the protection of the Bankruptcy Act. One, this is not true. Two, if in any way it denied poor people the protection of bankruptcy, not only would I not speak for it, not only would I not vote for it, I would be here fighting against it. The simple truth is, no American is denied access to bankruptcy under this bill.

What the legislation does do is assure that those with the ability to repay a portion of their debts do so by establishing a clear and reasonable criteria to determine repayment obligations. However, it also provides judicial discretion to ensure that no one genuinely in need of debt cancellation will be prevented from receiving a fresh start. That bears repeating. No one is denied bankruptcy protection because, ultimately, of judicial discretion. Prove you need the protection, and you can and will get it.

To do this, the bill contains a means test, virtually identical to the one passed by the Senate with 84 votes on a previous occasion. Under current law, virtually anyone who files for complete debt relief under chapter 7 receives it. Regardless of your resources, whether you can repay it or not, your obligation simply gets passed along to the small store owner, the mom and pop store, the family business. You pass on your obligation, regardless of your ability. We changed that by creating a needs-based system which establishes a presumption that chapter 7 filings should either be dismissed or converted to chapter 13 when the debtor has sufficient income to repay at least $10,000 or 25 percent of their debt—a presumption that if you have money in the bank or you have income to repay a portion of this, you should do so. You can answer the presumption. You can overcome it. You can defeat it. But surely it is not unreasonable for someone with those means to have that burden, to prove they cannot pay the debt.

In addition to this flexible means test, the bill before us also includes two key protections for low-income debtors that were a vital part of the Senate bill previously passed. The first is an amendment offered by Senator SCHUMER to protect low-income debtors from coercive motions. This will ensure that creditors cannot strong arm poor debtors into making promises of payments they cannot afford to make. Senator SCHUMER asked for it to be in the bill. It is in the bill. It offers protection from unscrupulous, unfair, and burdensome collections.

The second is an amendment offered by Senator DURBIN. Senator Durbin, who previously held my position and drafted the bill 2 years ago in its initial form, provided a miniscreen to reduce the burden of the means test on debtors between 100 and 150 percent median income. This is a preliminarily less intrusive look at the debts and expenses of middle-income debtors to weed out those with no ability to repay those debts and to move them more quickly to a fresh start.

It was a good addition, but the combination of Mr. SCHUMER's amendment

for a safe harbor in addition to the Durbin miniscreen and other provisions, not a part of the original Senate bill, will provide real protections to low-income debtors. These include, first, a safe harbor to ensure that all debtors earning less than the State median income will have access to chapter 7 without qualifications; two, a floor to the means test to guarantee that debtors unable to repay less than $6,000 of their debts will not be moved into chapter 13; three, additional flexibility in the means test to take into account the debtor's administrative expenses and allow additional moneys for food and clothing expenses—three protections—absolute, providing real protection for low-income families on vital necessities, on modest savings, and on means of collection.

All of this should assuage any fear that this bill will make it more difficult for those in dire straits to obtain a fresh start and reorganize their lives. Absolutely no one, because of these protections, will be denied access to complete protection in bankruptcy. But it is balanced because there is also protection for businesses and family companies.

Critics have also argued that the bill places an unfair burden on women and single-parent families. This is the most important part of this bill to understand. There is not a woman in this country, there is not a single parent, there is not someone receiving alimony, child support, or any child in America whose position is weakened because of this bill. Indeed, their position is strengthened because of this bill. Single-parent families, by elevating child support to the first position rather than its current seventh position, are in a better place because of this bill than they are if we fail to act.

Under current law, when it comes to prioritizing which debts must be paid off first, child support is seventh—after rent or storage charges, accountant fees, and tax claims. Remember this, because if you oppose this bill and if we fail to act in the bankruptcy line, accountants will be there, tax claims will be there, storage claims will be there, and women and children will be behind. Under this bill and this reform, children, women, single-parent families are where they belong—in front of everyone, including the Government.

Finally, the bill requires that a chapter 13 plan provide for full payment of all child support payments that become due after the petition is filed. This is simply a better bill—for business and for families.

Finally, in drafting a balanced bill, Senator GRASSLEY and I were confronted with the very real need to provide some additional consumer protection. The fact is, many people don't just fall into bankruptcy. In my judgment, they are driven into bankruptcy by unscrupulous, unnecessary, and burdensome solicitations of debt by the credit industry. This had to be in the bill, and it is in the bill.

The credit card industry sends out 3.5 billion solicitations a year. That is more than 41 mailings for every American household—14 for every man, woman, and child in the Nation. It is not just the sheer volume of the solicitations; it is a question of who is targeted. Solicitations of high school and college students are at a record level. Americans with incomes below the poverty line have doubled their use of credit.

The result is not surprising, as 27 percent of families earning less than $10,000 have consumer debt of more than 40 percent of their income. This bill deals with that reality.

With the help of Senators SCHUMER, REED, and DURBIN, we have ensured that there is good consumer protection in this bill. It is not everything I would have written, certainly not everything they would have liked, but it is good and it is better than current law.

The bill now requires lenders to prominently disclose the effects of making only a minimum payment on your account; that interest on loans secured by dwellings is tax deductible only up to the value of property, warnings when late fees will be imposed, and the date on which an introductory or teaser rate will expire and what the permanent rate will be after that time. All of these things will be required on consumer statements in the future. Few are required now.

What this means is that Senator GRASSLEY and I have done our best. We have worked with all Members of the Senate in both parties. This is a good bill and a balanced bill. The Senate has approved it before. It should do so again. It provides new consumer protection, protection for women and children, securing their place in bankruptcy lines, ensuring that debts get repaid when they can be, ensuring bankruptcy protection, and ensuring that abuses end so that small businesses are not victimized and consumers who can pay their bills do not pay the additional costs of those who choose not to.

I congratulate Senator GRASSLEY once again on an extraordinary effort. I am very proud to coauthor this bill with him. I look forward to the Senate's passage.

I yield the floor.

Mr. GRASSLEY. Mr. President, I hope we had a lot of people who were able to listen all afternoon on this debate. I doubt if very many people listened for 4 hours, but they heard a lot of charges against the bill that were partisan early on this afternoon. Then I said how this bill passed 83–14 originally. That would never have happened—that wide of a margin and bipartisan cooperation—except for the early support and continuing support, and you have seen that demonstrated in the recent speech by Senator TORRICELLI. I thank him for that.

I also thank Senator BIDEN of Delaware for also helping us get this bill out of committee and to the floor, and also Senator REID of Nevada, who helped us get through the hundreds of amendments we had filed with this legislation. So this is evidence of just three people on the other side of the aisle who have worked very hard to make this a bipartisan approach, and this legislation, as controversial as it is, would not have gotten as far as it had without that cooperation. I thank Senator TORRICELLI.

CONCLUSION OF MORNING BUSINESS

Mr. LOTT. Mr. President, it is my understanding that the time between now and 6 p.m. is under my control for morning business. With that in mind, I ask unanimous consent that the Chair close morning business.

The PRESIDING OFFICER. Morning business is closed.

NATIONAL ENERGY SECURITY ACT OF 2000—MOTION TO PROCEED—Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

Motion to proceed to S. 2557, a bill to protect the energy security of the United States and decrease America's dependency on foreign oil sources to 50 percent by the Year 2010 by enhancing the use of renewable energy resources, conserving energy resources, improving energy efficiencies, and increasing domestic energy supplies, mitigating the effect of increases in energy prices on the American consumer, including the poor and the elderly, and for other purposes.

Mr. LOTT. Mr. President, I now withdraw my motion to proceed to S. 2557.

The PRESIDING OFFICER. The Senator has that right. The motion is withdrawn.

ENACTMENT OF CERTAIN SMALL BUSINESS, HEALTH, TAX, AND MINIMUM WAGE PROVISIONS—MOTION TO PROCEED

Mr. LOTT. I move to proceed to the conference report containing the tax bill, H.R. 2614.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate on the bill H.R. 2614 ''To amend the Small Business Investment Act to make improvements to the certified development company program, and for other purposes,'' having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both houses.

The PRESIDING OFFICER. Without objection, the Senate will proceed to

the consideration of the conference report.

(The report is printed in the House proceedings of the RECORD of October 26, 2000.)

NATIONAL ENERGY SECURITY ACT OF 2000—MOTION TO PROCEED—Continued

Mr. LOTT. Mr. President, I now renew my motion to proceed to S. 2557. I will notify all Senators as to the exact date on which I intend to file cloture on this very important tax conference report. I note that I will not do that today. In the meantime, this action I have just taken will allow me to file that cloture motion at a later date.

MORNING BUSINESS

Mr. LOTT. I ask unanimous consent that the time between now and 6:30 remain in control of the majority leader for morning business, as provided under the previous order.

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

Mr. LOTT. At the request of Senator GRASSLEY and others who wish to be heard, we are asking to extend the time from 6 until 6:30.

I believe there will be a voice vote at the conclusion of this time.

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

Mr. LOTT. I yield the floor.

THE LEGAL IMMIGRATION FAMILY EQUITY ACT

Mr. THURMOND. Mr. President, it is highly unfortunate that the Clinton administration is apparently trying to play politics with immigration during the final days before the Presidential election.

The Congress has tried to work in good faith with the President to help immigrants who play by the rules, and have not been treated fairly by the Immigration and Naturalization Service. Unfortunately, the President does not seem to be interested in a reasonable compromise.

President Clinton has demanded blanket amnesty for any alien in the United States in 1986 or before. This is not limited to legal immigrants. It includes illegal aliens. It does not matter to the President whether they have tried to follow the law in getting their status adjusted during all these years, or whether they flagrantly violated the immigration laws. The President just wants to give blanket amnesty. Also, the White House does not know how many would be eligible for amnesty under their plan, but the number would clearly be in the millions. This is irresponsible policy.

The National Border Patrol Council, whose members are border patrol agents, has strongly criticized the President's proposal. They said, ''In addition to punishing those who abide by our immigration laws and rewarding those who disobey them, a new amnesty would encourage innumerable others to break our laws in the future. This is not sound public policy.''

The Congress has a better way. The Legal Immigration Family Equity Act, which is part of the Commerce-Justice-State Appropriations legislation, would allow aliens in the United States before 1982 to secure amnesty if they had tried to comply with the immigration laws. This would provide assistance to about 400,000 aliens who were wrongly denied relief through administrative action of the I.N.S.

Moreover, the legislation would assist hundreds of thousands of applicants who are on a waiting list to be united with their families in the United States. This bill would greatly help promote family unification.

As this legislation demonstrates, the Congress should help immigrants who help themselves and try to follow the rules. However, far too often, the roadblock that legal immigrants run into has nothing to do with the Congress. It is caused by the Administration, and more specifically the I.N.S.

The record of the I.N.S. in helping legal immigrants during this Administration has been very poor. I have grown very frustrated in recent years trying to help citizens of my state who are trying to work through the I.N.S. and follow the law. Sometimes, when I make inquiries about an applicant's case, the I.N.S. does not even respond to my repeated requests. When I do get a response, it is often handwritten and hard to read or understand. It may even be inaccurate. Also, the I.N.S. has actually lost files about which I was inquiring. If federal elected officials receive this type of treatment, the difficulties that applicants face while trying to work with the I.N.S. alone must be many, many times worse. I have contacted the Attorney General about these chronic problems, but I have not even received the courtesy of a response.

With a new Administration next year, I hope we can fundamentally reform the I.N.S. We must make it responsive to the people.

In the meantime, the President should cooperate with the Congress, and promote reasonable solutions to the problems faced by legal immigrants. At the same time, he should devote his attention to addressing the fundamental problems regarding how immigrants are treated by his own administration every single day.

GEN. RICHARD LAWSON, USAF: IN THE STYLE OF CINCINNATUS

Mr. BYRD. Mr. President, the great success and continuing strength of the United States as a republic is due in no small part to the willingness of our citizens to be soldiers and, no less important, of our soldiers to be citizens.

One such soldier-citizen is General Richard L. Lawson, late of the Air Force of the United States, now on the verge of a second retirement, this time from a productive career in public life.

On active duty as General Lawson, he held positions of trust at the highest levels of responsibility in planning and executing the military elements of U.S. foreign policy during times of great tension.

As Dick Lawson, the envoy plenipotentiary from the most basic of America's basic industries to the councils of government that include this Senate, he has made useful and durable contributions to policies that make the Nation more secure and energy independent.

Richard Lawson is, in fundamental ways, exceptional, if not unique.

He is one of few individuals to hold every enlisted and commissioned rank in the military structure from enlistee of bottom rank to the four-star grade that signifies overall command. He may well be the only one to have done this between two services—to rise step-by-step from buck private to regimental sergeant major in the Army National Guard of Iowa; and then, when commissioned into the Air Force, from second lieutenant to general.

Highlights of General Lawson's Air Force career include the following: military assistant at the White House under two Presidents; Commander, Eighth Air Force; Director of Plans and Policy for the Joint Chiefs of Staff; U.S. representative to the military committee of the North Atlantic Treaty Alliance; Chief of staff at Supreme Headquarters of the Allied Powers in Europe; and, finally, command of the day-to-day activities and deployments of all services in the U.S. European Command, the deputy commander-in-chief.

During his span of service, some important national and international developments included the following: the making of plans and the acquisition of means to re-establish U.S. strength and flexibility and deterrence; the restoration of cordiality among the NATO allies.

General Lawson left active service in 1986. Early the next year, while figuratively behind the plow, like Cincinnatus, he was approached by a delegation of coal industry leaders. They found him, in fact, clearing undergrowth on his acreage in the Virginia countryside. They called him again into service, and he again responded.

In the 14 years since then, Dick Lawson has presided over the unification of what once was both a profusion and a confusion of voices that sought to speak for mining. He first blended together within the National Coal Association all elements of the coal industry. More recently, he joined the many elements of mining represented by coal, metals and minerals producers. With the union of the coal association and the American Mining Congress to form the National Mining Association, two voices became one.

It has been America's good fortune to have leaders which exhibit true faith and allegiance to the general welfare and the blessings of liberty.

One such leader is Richard L. Lawson. I personally thank him for his efforts, for his patriotism, and for his vision.

His 40 years of combined military duty is rich with decorations and honors. It includes the Defense Distinguished Service Medal, the Air Force Distinguished Service Medal with oak leaf cluster, and the Legion of Merit. On the level of personal service, it includes the Soldier's Medal that recognizes an act of courage not involving an armed enemy; and the Air Medal and the Bronze Star that reflect combat duty in the Vietnam War.

We owe a debt of gratitude to men like General Lawson, who give so freely and so much to this great nation. May this nation always be blessed with such citizens.

God give us men!
A time like this demands strong minds,
great hearts, true faith, and ready hands.
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie.
Men who can stand before a demagogue
And brave his treacherous flatteries without winking.
Tall men, sun—crowned;
Who live above the fog,
In public duty and in private thinking.
For while the rabble with its thumbworn creeds,
It's large professions and its little deeds,
mingles in selfish strife,
Lo! Freedom weeps!
Wrong rules the land and waiting justice sleeps.
God give us men!
Men who serve not for selfish booty;
But real men, courageous, who flinch not at duty.
Men of dependable character;
Men of sterling worth;
Then wrongs will be redressed, and right will rule the earth.
God Give us Men!

SENATOR PATRICK MOYNIHAN'S RETIREMENT FROM THE UNITED STATES SENATE

Mr. THURMOND. Mr. President, I rise today to pay tribute to one of the finest scholars to have graced the United States Senate, Senator DANIEL PATRICK MOYNIHAN. As all of you know, our esteemed colleague from New York will soon be retiring from the Senate after 24 years.

Senator MOYNIHAN has a rich history of public service. Beginning his political career as a member of Averell Harriman's gubernatorial campaign staff in 1954, Senator MOYNIHAN used his vast intellect to build one of the most expansive political resumes of the 20th century. To attempt to list every position ever held by my colleague would take entirely too long. However, some of the highlights of his political career include serving in the Cabinet or sub-Cabinet of Presidents Kennedy, Johnson, Nixon, and Ford, serving as a U.S. Ambassador to India, and as a U.S. Representative to the United Nations. In 1976, he again represented the U.S. as President of the United Nations Security Council. It is important to note that Senator MOYNIHAN accomplished all of this prior to his tenure in the Senate.

Though anyone would be impressed with such an extensive biography, Senator MOYNIHAN has not limited himself to the political arena. He has served in the United States Navy, taught at some of the most elite schools in the Nation, authored or edited 18 books, and has served on numerous boards and committees. An exhaustive lifestyle few could endure has resulted in Senator MOYNIHAN's receipt of some of the most prestigious national awards, and 62 honorary degrees.

The Senate will not be the same without my esteemed colleague from the Empire State, and I would like to express my gratitude for his service to this Nation. I wish him and his wife Liz health, happiness, and success in all of their future endeavors.

SENATOR BOB KERREY'S RETIREMENT FROM THE UNITED STATES SENATE

Mr. THURMOND. Mr. President, I would like to take this opportunity to bid farewell to a true American hero. Senator J. ROBERT KERREY will be retiring from the United States Senate after dedicating the last twelve years to representing the fine state of Nebraska.

Throughout my tenure in Congress, I have had the opportunity to serve with several distinguished patriots. However, few have displayed the commitment and ability of Senator BOB KERREY.

After graduating from the University of Nebraska at Lincoln in 1966, BOB set his aspirations high, earning a prestigious slot on one of America's most elite fighting forces, the Navy Seals. While serving this Nation in Vietnam, BOB demonstrated the valor, leadership, and selflessness deserving of the Congressional Medal of Honor. The Medal of Honor is the highest medal awarded by the United States and is reserved for those who have gone above and beyond the call of duty, at the risk of their own life, to perform a deed of personal bravery or self-sacrifice.

Upon his return to the States after the war, BOB built a thriving business with unwavering determination. After proving himself an able businessman, he decided to pursue a career in public service. In 1982, he was sworn in as Governor of the Cornhusker State. During his four year tenure, he used his vast financial knowledge to turn a three percent deficit into a seven percent surplus.

BOB changed roles but continued his public service, when he won a seat in the U.S. Senate in 1988. Admired by his constituents for his countless contributions to furthering education and assisting small farmers, he was re-elected in 1994.

It has been a privilege to serve along side this American patriot, and I am pleased that I had the opportunity to work with him on the Armed Services Committee. I wish him and his two children, Benjamin and Lindsey, health, happiness, and success in all their future endeavors.

SENATOR CONNIE MACK'S RETIREMENT FROM THE UNITED STATES SENATE

Mr. THURMOND. Mr. President, I rise today to pay tribute to a man who has made countless contributions to the state of Florida and to this Nation during his tenure in the United States Senate, Senator CONNIE MACK. Senator MACK has decided to retire after serving two successful terms in the Senate.

Prior to his entrance into public service, CONNIE spent 16 years as a local banker. During this time, he established himself as a civic leader in his Florida community and helped spearhead an effort to build a much needed local hospital. Recognizing that as a member of Congress he could do much more to help not only his local community, but the entire nation as well, he decided to run for a seat in the House of Representatives.

While serving three terms in the House, CONNIE built a reputation as someone who could get things done. It was soon obvious to many familiar with this aspiring politician that his talents would best serve this nation in the United States Senate. Running on a platform of ''less taxing, less spending, less government, more freedom,'' CONNIE MACK was embraced by the Florida voters and was sworn in as the junior Senator for the Sunshine State in January 1989.

Senator MACK was soon recognized by his colleagues as a man with a solid work ethic of uncompromising integrity. In 1996, he was chosen by his Republican colleagues as Chairman of the Republican Conference, and he retained this post for the rest of his time in office. He fought intensely for his constituents, and they repaid him in 1994 when they re-elected him with 70 percent of the vote—the first Republican in Florida to be re-elected to the United States Senate.

During CONNIE's tenure in the Senate, he has used his extensive banking experience to frame landmark legislation which modernized our banking laws and helped prepare our financial system for the global market of the 21st century. A fierce opponent of government waste, he advocates deficit reduction and cutting congressional spending.

CONNIE's most admirable trait is his determination to overcome tragedy. His family's battle with cancer catalyzed the young Senator to push a legislative agenda focused on eliminating this destructive disease. Senator MACK

is known nationwide as an advocate for cancer research, and both he and his wife Priscilla have been honored repeatedly for their work to promote cancer awareness. He has been instrumental in obtaining medical research funding, and his perseverance paid off to the benefit of the health of this Nation.

Senator CONNIE MACK is an individual well respected on both sides of the political aisle. His legacy is one composed of honesty and integrity, and I feel that I can speak for all of my colleagues when I express my gratitude for his countless contributions to the Senate. I wish him and his wife Priscilla health, happiness, and success in the years to come.

THE NEED FOR A BIPARTISAN APPROACH TO ENERGY POLICY

Mr. AKAKA. Mr. President, I rise today to talk about an issue which has, of late, affected the lives of all Americans. I am talking about rising energy costs. All indications suggest that America's summer of discontent is going to continue and become the winter of discontent with respect to energy prices. Americans have paid recordbreaking prices at the pump this summer. They will continue to suffer escalating prices this winter, too. Higher energy prices hit most those Americans who can afford it the least. But more important, the findings of an international panel of scientists has concluded that man-made greenhouse gases are altering the atmosphere in ways that affect earth's climate.

The World Meteorological Organization and the United Nations Environment Program established the Intergovernmental Panel on Climate Change (IPCC) in 1988. The function of IPCC is to assess available information on the science, impacts, and crosscutting economic issues related to climate change, in particular a possible global warming induced by human activities. The IPCC completed its first assessment report in August 1990 which indicated with certainty an increase in the concentration of greenhouse gases due to the human activity. The report assisted the governments of many countries in making important policy decisions, in negotiating, and in the eventual implementation of the UN Framework Convention on Climate Change which was signed by 166 countries at the UN Conference on Environment and Development at Rio de Janeiro in 1992. The convention was ratified in December 1993 and took effect on 21 March 1994. IPCC also issued another assessment in 1995.

I find the conclusions of the panel's latest assessment alarming. One of its most striking findings is its conclusion that the upper range of warming over the next century could be even higher than the panel's 1995 estimates.

The evidence of increasing warming has shown up in different places—retreating glaciers and snow packs, thinning polar ice, and warmer nights. There is a growing consensus that humans are playing a significant role in climate change. Even some of those who dissent from the view that human activity is altering the climate concede that human influence on the earth's climate is established.

I rise today, in the closing days of the 106th Congress, to urge all interested organizations and individuals to begin working now to address energy issues early in the next Congress. We have two distinct problems to address. First, we must ensure that Americans continue to enjoy reasonably priced energy now and in the future. Second, we must work on the development of environmentally sound solutions to our energy problem in the mid- to long-term timeframe.

In the last few months we have had several hearings on electricity restructuring, oil prices, supply and demand, gasoline price hikes, natural gas, and the Strategic Petroleum Reserve. All these hearings point to one thing—that we have problems with our energy picture, and they need to be fixed, and fixed soon.

Our energy problem has been in the making for a long time. For the last thirty years, we have had several energy crises. The reasons for all of these crises were the same: actions and crises in the Middle East, rising American demand, bigger cars, and so on. The crisis this year is no different. Whenever the Middle East sneezes, Americans catch cold. American pockets books have suffered these periodic colds. But the people of Hawaii have suffered a long and almost interminable cold. Throughout the 1990's, Hawaii has been the number one state in terms of gas prices at the pump. It relinquished this dubious honor to states in the Midwest this summer. This has to stop. We must ensure that Americans get energy at reasonable prices.

Our import dependence has been rising for the past two decades. The combination of lower domestic production and increased demand has led to imports making up a larger share of total oil consumed in the United States. Last year crude oil imports amounted for 58 percent of our oil demand. Oil imports will exceed 60 percent of total demand this year. Imports will constitute 66 percent of the U.S. supply by 2010, and more than 71 percent by 2020. Continued reliance on such large quantities of imported oil will frustrate our efforts to develop a national energy policy and set the stage for energy emergencies in the future.

Transportation demands on imported oil remain as strong as ever. Since the oil shock of the 1970s, all major energy consuming sectors of our economy with the exception of transportation have significantly reduced their dependence on oil. The transportation sector remains almost totally dependent on oil-based motor fuels. The fuel efficiency of our vehicles needs to be improved.

U.S. natural gas demand in the last decades has increased significantly. It is expected to grow by more than 30 percent over the next decade. Demand for natural gas from each of the major consuming sectors—residential, commercial, industrial, and electricity generation will increase. Electricity generation accounts for the lion's share of this increase at 50 percent of the increase.

We are facing problems on both sides of the supply and demand equation. Worldwide supplies of available energy sources are getting tighter and demand is increasing. This only means that unless one side of the equation changes, we will continue to have energy problems.

We cannot look at our energy sources in a piecemeal fashion. We will have to take a comprehensive look at all aspects of our energy picture. The only way to deal with our energy problem is to have a multifaceted energy strategy and remain committed to that strategy. We must adopt energy conservation, encourage energy efficiency, and support renewable energy programs. Above all, we must develop energy resources that diversify our energy mix and strengthen our energy security.

I urge all interested organizations and individuals to work together to strengthen our energy policy, an energy policy that serves the American public.

In the short term, we can do this by building upon a lot of good work that has already been done. Initiatives such as the deep water royalty incentives proposed by our former colleague, Senator Bennett Johnston and supported by the Administration have been major contributors to the 65 percent increase in offshore oil production under this Administration. Policies that led to the increases in natural gas production in deep waters by 80 percent in just the past two years are welcome. Natural gas production on Federal lands has increased by nearly 60 percent since 1992. This is a good sign that we are able to utilize our national resources in an environmentally responsible manner.

Initiatives such as the Interagency Working Group on Natural Gas, the Federal Leadership Forum to address environmental review processes, a resource assessment for Wyoming oil and gas, and technology partnering with the Bureau of Land Management to improve access to Federal lands will provide increased energy resources.

In 1998, DOE and the Occidental Petroleum Corporation, concluded the largest divestiture of federal property in the history of the U.S. government. The sale of Elk Hills Naval Petroleum Reserve in California for $3.65 billion underscored the Clinton Administration's faith in the private sector to carry responsible development of the 11th largest of the Nation's oil and gas fields.

The Clinton Administration has proposed several tax incentives to encourage new domestic exploration and production and to lower the business costs of the producers when oil prices are

low. It also proposed tax credits for improving energy efficiency and promoting use of renewable energy. Tax reforms would help us improve our energy supply picture.

The Administration has also advanced legislation to address the issue of restructuring the electric utility industry. A number of other restructuring proposals have been made. The electric utility industry is an integral part of the overall energy supply and demand equation.

The restructuring that we are talking about essentially involves the lower 48 States that are contiguous. Some may ask what is in it for Hawaii? It is not connected to the national grid. The answer is simple. Hawaii imports from the Mainland a vast portion of goods and services it consumes. Reduction in production costs on the Mainland because of competition unleashed by electric utility industry restructuring would benefit the people of Hawaii.

We can build upon the Clinton Administration's accomplishments. Its strategically focused energy policy encompasses economic, environmental, and national security considerations. It is a balanced approach.

The effects of major global climate change on the U.S. and the rest of the world will be devastating. I will take a few minutes here to describe the effect of climate change on Hawaii. Being a state consisting of islands with limited land mass, we are, as we must be, sensitive to global climate changes. We are tropical paradise and we would like to stay that way. But the worldwide problem of greenhouse gases threatens our well-being.

Honolulu's average temperature has increased by 4.4 degrees over the last century. Rainfall has decreased by about 20 percent over the past 90 years. By 2100, average temperatures in Hawaii could increase by one to five degrees Fahrenheit in all seasons and slightly more in the fall. New data may revise this estimation upward.

Estimates for future rainfall are highly uncertain because reliable projections of El Nino do not exist. It is possible that large precipitation increases could occur in the summer and fall. It is also not yet clear how the intensity of hurricanes might be affected.

The health of Hawaii's people may be negatively affected by climate change. Higher temperatures may lead to greater numbers of heat-related deaths and illnesses. Increased respiratory illnesses may result due to greater ground-level ozone. Increased use of air conditioning could increase power plant emissions and air pollution. Viral and bacterial contamination of fish and shellfish habitats could also cause human illness. Expansion of the habitat and infectivity of disease-carrying insects could increase the potential for diseases such as malaria and dengue fever.

In Honolulu, Nawiliwili, and Hilo, the sea level has increased six to fourteen inches in the last century and is likely to rise another 17 to 25 inches by 2100. The expected rise in the sea level could cause flooding of low-lying property, loss of coastal wetlands, beach erosion, saltwater contamination of drinking water, and damage to coastal roads and bridges. During storms, coastal areas would be increasingly vulnerable to flooding.

Agriculture might be enhanced by climate change, unless droughts decrease water supplies. Forests may find adapting to climate change more difficult. For example, 'ohi'a trees are sensitive to drought and heavy rains. Changes could disproportionately stress native tree species because nonnative species are more tolerant of temperature and rainfall changes. Climatic stress on trees also makes them vulnerable to fungal and insect pests.

Hawaii's diverse environment and geographic isolation have resulted in a great variety of native species found only in Hawaii. However, 70 percent of U.S. extinctions of species have occurred in Hawaii, and many species are endangered. Climate change would add another threat. Higher temperatures could also cause coral bleaching and the death of coral reefs.

Hawaii's economy could also be hurt if the combination of higher temperatures, changes in weather, and the effects of sea level rise on beaches make Hawaii less attractive to visitors. Adapting to the sea level rise could be very expensive, as it may necessitate the protection or relocation of coastal structures to prevent their damage or destruction.

We have to address the problems that may be created by the climate change and the sooner we start on this the better off we will be. We would have to invest in the development of new technologies that will provide new and environmentally friendly sources of energy, newer and environmentally friendly technologies that allow use of conventional energy sources. We would have to work closely with other nations in a cooperative manner. We can help the rest of the world through our well known technological prowess.

Our energy policy for the 21st century requires forward thinking. Sustainable economic growth requires a sustainable energy policy. In an era with revolutionary changes in communications and information technologies, information exchange, interdependent trade, the world economies are becoming increasingly globalized. Our challenge will be to sustain this global economy while enhancing the global environment. Our energy challenge will be to formulate and implement policies that provide not only the U.S. but all nations with reasonably priced energy.

We need fundamentally different sources of energy for the 21st century. Hydrogen is one such energy source. The long-term vision for hydrogen energy is that sometime well into the 21st century, hydrogen will join electricity as one of our Nation's primary energy carriers, and hydrogen will ultimately be produced from renewable sources. But fossil fuels, especially natural gas, will be a significant long-term transitional resource. In the next twenty years, increasing concerns about global climate changes and energy security concerns will help bring about penetration of hydrogen in several niche markets. The growth of fuel cell technology will allow the introduction of hydrogen in both the transportation and electricity sectors.

We are a long way from realizing this vision for hydrogen energy. But progress is being made and many challenges and barriers remain. Sustained effort is the only way to overcome these challenges and barriers. We need to support a strategy that focuses on midterm and long-term goals.

While we develop suitable technologies for using this clean source of energy, we can rely on other clean sources such as natural gas. Natural gas is a good choice for the fuel of the future. It is safe and reliable to deliver, more environmentally friendly than oil, and more than three times as energy-efficient as electricity from the point of origin to point of use. There are other potential sources of clean energy such as methane hydrates that need to be explored and developed.

We need to unleash American ingenuity to find solutions to our energy problem. This Senator is convinced that we can do this only when we have a national commitment to, and a strategy for technological advancement as part of national energy policy. Only a national commitment will help us maintain a sustainable economic growth while protecting environmental values. We should recognize that there is a growing intersection between national economy, environment, and energy. If we ignore energy policy, then we only imperil our economy and national security.

I want to compliment my friends, Senators MURKOWSKI and BINGAMAN, the Chairman and Ranking Member of the Senate Energy Committee for the great effort that they put into educating us all and trying to build a consensus on very difficult issues. Our Senate Energy Committee has committed a great deal of time in discussing our energy problems. I believe the time has come for us to act. I am committed to help move the energy agenda with alacrity in the coming Congress.

In the coming session, we must try to move legislation that encourages, adopts, and strengthens energy conservation. We must encourage energy efficiency, and support renewable energy programs. Above all, we must formulate and advance policies that encourage the development of energy resources that diversify our energy mix and strengthen our energy security without sacrificing the environment.

We have had eight long years of unparalleled economic growth. The

health of our economy is threatened by the escalating price of energy and dire predictions about our energy supply and demand equation. We cannot allow our energy problem to derail our economy. We cannot allow the greenhouse gases to negatively impact the American people and their way of life. We must act at the earliest possible moment in the coming session to address energy issues that we were not able to address in a bipartisan fashion in the 106th Congress.

TRIBUTE TO SID YATES

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to pay tribute to my friend and colleague, Sid Yates, who first came to Congress in 1948 and who served with great distinction until his retirement at the end of the last Congress. All of us who knew and loved Sid were saddened by his recent death. He was a soft-spoken leader who demonstrated time and again his unequivocal commitment to his constituents in Chicago and his unwavering respect for the nation's best principles. He was a public servant in the truest and most noble sense, and he was a powerful inspiration to all of us who were fortunate enough to work with him.

During his years as Chairman of the Interior Appropriations Subcommittee, Sid skillfully advanced legislation to sustain and protect our national parks and historic sites. He was a brilliant legislator who has done more to preserve our national historic and cultural legacy than any other member of Congress.

Sid was also well known as Congress's leading advocate for the National endowments for the Arts and Humanities. He was a strong and courageous defender of these important agencies. Especially during times of controversy over the agencies, he spoke effectively and persuasively to preserve their vital programs. because of Sid Yates, art and music and dance and theater are now more accessible to families across the nation through their schools and in their cultural institutions. It's an outstanding legacy, and I know I join my colleagues in Congress in a commitment to honor Sid Yates' memory with a renewed effort to support the endowments.

Sid Yates will long be remembered as a man who brought graciousness, integrity and civility to public service. He is a patriot who is deeply missed here in Congress as well as in his beloved Chicago. I commend all that he accomplished, and all of us are grateful for his five decades of selfless and principled public service. He will be remembered fondly for many years to come.

VICTIMS OF GUN VIOLENCE

Mr. HARKIN. Mr. President, it has been more than a year since the Columbine tragedy, but still this Republican Congress refuses to act on sensible gun safety legislation.

Since Columbine, thousands of Americans have been killed by gunfire. Until we act, Democrats in the Senate will read the names of some of those who have lost their lives to gun violence in the past year, and we will continue to do so every day that the Senate is in session.

In the name of those who died, we will continue this fight. Following are the names of some of the people who were killed by gunfire one year ago today.

October 31, 1999:

Francisco Aguillon, 31, Chicago, IL;
Helton Calderio, 42, Detroit, MI;
Lashon Carter, 18, Kansas City, MO;
Archie Dean, 29, Pittsburgh, PA;
Roland Ford, 15, Washington, DC;
Eddie Griffith, Sr., 71, Memphis, TN;
Richard Hall, 19, Pittsburgh, PA;
Larry Lavigne, 22, New Orleans, LA;
Willie Matthews, 48, Oakland, CA;
Preston Noble, 25, Philadelphia, PA;
William Ohlig, 21, Philadelphia, PA;
Billijo M. Pyle, 51, Akron, OH;
Derrick Smith, 20, Rochester, NY;
Doniell Smith, 14, Washington, DC;
Gene Thompkins, 57, Akron, OH; and
Jorge Vega, 34, Miami-Dade County, FL.

Two of the victims of gun violence I mentioned, 15-year-old Roland Ford and 14-year-old Doniell Smith of Washington, D.C., were shot and killed by four masked gunmen while the two boys and their friends were walking back from a Halloween party hosted by their church. The gunmen fired nearly 30 shots into the group, injuring two and killing Roland and Doniell. A police department representative described the two boys as ''strait-laced kids who weren't involved in any negative activity in the community.''

We cannot sit back and allow such senseless gun violence to continue. The deaths of these people are a reminder to all of us that we need to enact sensible gun legislation now.

ADDITIONAL STATEMENTS

COMMENDING IDAHO HIGH SCHOOL STUDENTS FOR HONORING WWII VETERANS

● Mr. CRAPO. Mr. President, I rise to commend the Idaho youth who have honored World War II veterans in recent months. Several Idaho high schools, including Pocatello High School, Highland High School, and Century High School, as well as Bosie high School, have become tremendously involved in Operation Recognition. In addition, students at Eagle High School have fundraised extensively for the National WWII Memorial that will be placed on the National Mall in Washington, DC.

Operation Recognition is a new program through which honorary high school diplomas are awarded to WWII veterans. The veterans who receive these diplomas left for service in the war before they completed their studies. The gesture of awarding an honorary diploma is a way to thank veterans and demonstrate appreciation for the sacrifices that they made.

Students whose high schools award honorary diplomas often assist in planning the details of the ceremony. In the process of developing memorable and personal additions to the graduation, these young people learn about the war and its historical significance.

Pocatello High School has selected December 7th of this year, which is the 59th anniversary of Pearl Harbor, as the date of its ceremony for graduating veterans. Honorary diplomas will also be awarded to those who attended nearby Highland High School and Century High School. As part of the festivities, one student from each high school will interview a veteran who attended his or her school. The graduates and their families are invited to stay after the ceremony for a reunion. Students have been asked to help decorate the stage and escort attendees to their seats.

The Boise High School History Club is already preparing for the April 17, 2001, Boise High veterans' graduation. Students in the club have done exhaustive research to find eligible veterans. They have also been working to publicize the event, preparing a yearbook for each graduating veteran, and making arrangements for a homeroom mentor program. The students are arranging speaking opportunities for the veterans and a range of social activities, including a cookout. Idaho State Veterans Home Volunteer Coordinator, Tom Ressler, says that the goal is to establish a relationship between veterans and students before the graduation.

Eagle High School students showed their appreciation for WWII veterans by raising more than twenty-three thousand dollars for the National WWII Memorial. Their year-and-a-half fundraising effort proved to be the most successful of all our nation's high schools. The enthusiastically-run fundraising campaign included candy sales, a giant tag sale, and concession stands. The students also marched in parades and ran advertisements on television.

Eleventh grade American history teacher, Gail Chumbley, and student chairs Fil Southerland and Kate Bowen spearheaded the initiative. Ms. Chumbley reported that the fundraising campaign has motivated many students to learn about WWII outside of class. Ms. Chumbley, Mr. Southerland, and Ms. Bowen will present The National Campaign Chairman, Senator Bob Dole, with a commemorative check at the monument's groundbraking ceremony that will be held on Veterans' Day this year.

I take great pride in the fact that members of the youngest generation of Idahoans, who have grown up in a time of relative peace and unprecedented prosperity for our country, take time to honor our nation's WWII veterans.

Through their endeavors, these students have learned much about WWII. In the process, they have heightened their community's awareness of this important part of American history and the brave people who were part of it.●

COMMENDATION FOR JARED HOHN AND THE HOTSHOTS

● Mr. JOHNSON. Mr.President, I rise today to commend the Sawtooth Hotshots for their valiant efforts in fighting the recent forest fires that raged through the Black Hills of South Dakota and other western states. The Hotshots are U.S. Forest Service fire crews that specialize in putting out large forest fires. The work is tough, demanding and invaluable. The Hotshot crew is dedicated, spending countless hours training for situations like those faced this summer. Once the fires occur, they often literally work around the clock to save the forests.

Nowhere is this spirit more exemplified than by Jared Hohn, a 21-year old college student from Hill City, South Dakota. For the last four summers, Jared has worked as a member of the Hotshot crew, fighting fires all over the country to help put himself through college at the University of South Dakota. As a member of the crew, he often works 16 hour days and, in one instance, worked for 42 hours straight fighting desert fires.

The work is dangerous and many lives have been lost. But the 80 hours of training that the crew receives at the start of each summer greatly helps to minimize the danger that they face. The training teaches proper firefighter techniques and understanding of the forces that affect fires, like weather patterns.

The dedication to public service and to saving lives is reflected in Jared and the entire Hotshot crew. Jared and the Hotshots are a hard-working group who literally lay their lives on the line to improve the world around us and to protect us from fires. We owe a great deal to them and to the Forest Service for preforming such a valuable public service.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 5:16 p.m., a message from the House of Representatives, delivered by Mr. Hayes, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 2485. An act to direct the Secretary of the Interior to provide assistance in planning and constructing a regional heritage center in Calais, Maine.

S. 3164. An act to protect seniors from fraud.

The message also announced that the House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 154. Concurrent resolution to acknowledge and salute the contributions of coin collectors.

S. Con. Res. 165. Concurrent resolution to make a correction in the enrollment of the bill S. 1474.

The message further announced that the House has agreed to the amendment of the Senate to the bill (H.R. 5239) to provide for increased penalties for violations of the Export Administration Act of 1979, and for other purposes.

The message also announced that the House has agreed to the amendments of the Senate to the resolution (H.J. Res. 102) recognizing that the Birmingham Pledge has made a significant contribution in fostering racial harmony and reconciliation in the United States and around the world, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4907. An act to establish the Jamestown 400th Commemoration Commission, and for other purposes.

H.R. 5461. An act to amend the Magnuson-Stevens Fishery Conservation and Management Act to eliminate the wasteful and unsportsmanlike practice of shark finning.

H.R. 5537. An act to waive the period of Congressional review of the Child in Need of Protection Amendment Act of 2000.

The message also announced that the House has agreed to the following concurrent resolutions, and requests the concurrence of the Senate:

H. Con. Res. 434. Concurrent resolution commending the men and women who fought the year 2000 wildfires for their heroic efforts in protecting human lives and safety and limiting property losses.

H. Con. Res. 439. Concurrent resolution correcting the enrollment of H.R. 2614.

ENROLLED BILLS SIGNED

At 5:16 p.m., a message from the House of Representatives, delivered by Mr. Hayes, one of its clerks, announced that the Speaker has signed the following enrolled bills:

S. 501. An act to address resource management issues in Glacier Bay National Park, Alaska.

S. 503. An act designating certain land in the San Isabel National Forest in the State of Colorado as the ''Spanish Peaks Wilderness.''

S. 610. An act to direct the Secretary of the Interior to convey certain land under the jurisdiction of the Bureau of Land Management in Washakie County and Big Horn County, Wyoming, to the Westside Irrigation District, Wyoming, and for other purposes.

S. 710. An act to authorize the feasibility study on the preservation of certain Civil War battlefields along the Vicksburg Campaign Trail.

S. 748. An act to improve Native hiring and contracting by the Federal Government within the State of Alaska, and for other purposes.

S. 1030. An act to provide that the conveyance by the Bureau of Land Management of the surface estate to certain land in the State of Wyoming in exchange for certain private land will not result in the removal of the land from operation of the mining laws.

S. 1088. An act to authorize the Secretary of Agriculture to convey certain administrative sites in national forests in the State of Arizona, to convey certain land to the City of Sedona, Arizona for a wastewater treatment facility, and for other purposes.

S. 1211. An act to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner.

S. 1218. An act to direct the Secretary of the Interior to issue to the Landusky School District, without consideration, a patent for the surface and mineral estate of certain lots, and for other purposes.

S. 1275. An act to authorize the Secretary of the Interior to produce and sell products and to sell publications relating to the Hoover Dam, and to deposit revenues generated from the sales into the Colorado River Dam fund.

S. 1367. An act to amend the Act which established the Saint-Gaudens Historic Site, in the State of New Hampshire, by modifying the boundary and for other purposes.

S. 1778. An act to provide for equal exchanges of land around the Cascade Reservoir.

S. 1894. An act to provide for the conveyance of certain land to Park County, Wyoming.

S. 2060. An act to permit the conveyance of certain land in Powell, Wyoming.

S. 2300. An act to amend the Mineral Leasing Act to increase the maximum acreage of Federal leases for coal that may be held by an entity in any 1 State.

S. 2425. An act to authorize the Bureau of Reclamation to participate in the planning, design, and construction of the Bend Feed Canal Pipeline Project, Oregon, and for other purposes.

S. 2872. An act to improve the cause of action for misrepresentation of Indian arts and crafts.

S. 2882. An act to authorize the Bureau of Reclamation to conduct certain feasibility studies to augment water supplies for the Klamath Project, Oregon and California, and for other purposes.

S. 2951. An act to authorize the Commissioner of Reclamation to conduct a study to investigate opportunities to better manage the water resources in the Salmon Creek watershed of the upper Columbia River.

S. 2977. An act to assist in the establishment of an interpretive center and museum in the vicinity of the Diamond Valley Lake in southern California to ensure the protection and interpretation of the paleontology discoveries made at the lake and to develop a trail system for the lake for use by pedestrians and nonmotorized vehicles.

S. 3022. An act to direct the Secretary of the Interior to convey certain irrigation facilities to the Nampa and Meridian Irrigation District.

H.R. 2498. An act to amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

H.R. 4788. An act to amend the United States Grain Standards Act to extend the authority of the Secretary of Agriculture to collect fees to cover the cost of services performed under the Act, to extend the authorization of appropriations for the Act, and to improve the administration of the Act.

H.R. 4868. An act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

Under the authority of the order of the Senate of October 30, 2000, at 8 p.m., a message from the House of Representatives, delivered by Ms. Kevie Niland, one of its reading clerks, announced that the House has passed the following joint resolution:

H.J. Res. 121. Joint resolution making further continuing appropriations for the fiscal year 2001, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 121. Joint resolution making further continuing appropriations for the fiscal year 2001, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. THURMOND).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–11384. A communication from the Director of the Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve'' (RIN2900–AJ88) received on October 26, 2000; to the Committee on Veterans' Affairs.

EC–11385. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''John D. Shea v. Commissioner'' (115 T.C. No. 8) received on October 27, 2000; to the Committee on Finance.

EC–11386. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Rev. Rul. 2000–51–BLS–LIFO Department Store Indexes—September 2000'' (Rev. Rul. 2000–51) received on October 27, 2000; to the Committee on Finance.

EC–11387. A communication from the Assistant Secretary for Policy, Management and Budget, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance'' (RIN1090–AA64) received on October 26, 2000; to the Committee on Energy and Natural Resources.

EC–11388. A communication from the General Counsel, Architectural and Transportation Barriers Compliance Board, transmitting, pursuant to law, the report of a rule entitled ''Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Play Areas'' (RIN3014–AA21) received on October 23, 2000; to the Committee on Environment and Public Works.

EC–11389. A communication from the Alternate OSD Federal Liaison Officer, Office of the Secretary, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''TRICARE Prime Enrollment'' received on October 26, 2000; to the Committee on Armed Services.

EC–11390. A communication from the Director of the Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Update of Small Business Specialist Functions'' (DFARS Case 2000–D021) received on October 26, 2000; to the Committee on Armed Services.

EC–11391. A communication from the Chief, Military Justice Division, Air Force Legal Services Agency, transmitting, pursuant to law, the report of a rule entitled ''Delivery of Personnel to United States Civilian Authorities for Trial'' (32 CFR 884) received on October 26, 2000; to the Committee on Armed Services.

EC–11392. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''12 CFR Part 747 Civil Monetary Penalty Inflation Adjustment'' received on October 26, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–11393. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''National Flood Insurance Program (NFIP); Insurance and Rates 65 FR 60759 10/12/2000'' (RIN3067–AD01) received on October 26, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–11394. A communication from the Secretary of the Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Delivery of Proxy Statements and Information Statements to Households'' (RIN3235–AH66) received on October 27, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–11395. A communication from the Under Secretary of Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Food Stamp Program: Non-Discretionary Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996'' (RIN0584–AC41) received on October 26, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–11396. A communication from the Associate Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Kiwifruit Grown in California; Decreased Assessment Rate'' (Docket Number: FV00–920–3 FIR) received on October 27, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2665: A bill to establish a streamlined process to enable the Navajo Nation to lease trust lands without having to obtain the approval of the Secretary of the Interior of individual leases, except leases for exploration, development, or extraction of any mineral resources (Rept. No. 106–511).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CRAIG:

S. 3265. A bill to amend the Internal Revenue Code of 1986 to clarify treatment of employee stock purchase plans; to the Committee on Finance.

By Mr. BREAUX:

S. 3266. A bill to amend the Delta Development Act to expand the area covered by the Lower Mississippi Delta Development Commission to include Natchitoches Parish, Louisiana; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. HUTCHISON (for herself and Mr. GRAMM):

S. Con. Res. 157. A concurrent resolution expressing the sense of the Congress that the Government of Mexico should adhere to the terms of the 1944 Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande Treaty between the United States and Mexico; to the Committee on Foreign Relations.

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. BINGAMAN, Mr. CONRAD, and Mrs. HUTCHISON):

S. Con. Res. 158. A concurrent resolution expressing the sense of Congress regarding appropriate actions of the United States Government to facilitate the settlement of claims of former members of the Armed Forces against Japanese companies that profited from the slave labor that those personnel were forced to perform for those companies as prisoners of war of Japan during World War II; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. CRAIG:

S. 3265. A bill to amend the Internal Revenue Code of 1986 to clarify treatment of employee stock purchase plans; to the Committee on Finance.

WORKER INVESTMENT PROTECTION ACT

Mr. CRAIG. Mr. President, I rise to introduce important legislation designed to clarify the tax treatment of employee stock purchase plans (ESPPs). The Worker Investment Protection Act provides this needed clarification.

Employee stock purchase plans are a common tool used by employers to allow rank-and-file employees to set aside part of their paychecks to purchase the company's stock. The tax code provides incentives for employees to participate in ESPPs to encourage employee ownership. This legislation is necessary because in selected cases around the country, the Internal Revenue Service (IRS) has begun to act contrary to almost 30 years of published policy, and is attempting to collect income taxes and payroll taxes on

ESPPs. For three decades, the published IRS ruling position (Rev. Rul. 71–52) has been that transactions under qualified stock option plans do not give rise to income that is subject to employment taxes. In Notice 87–49, the IRS extended the principles of this ruling to incentive stock options (ISOs). In a series of private letter rulings, the IRS applied the same position to ESPP transactions, which are generally governed by the same Code provisions as qualified and incentive stock options. The IRS has periodically indicated that it may reconsider the positions in Rev. Rul. 71–52 and Notice 87–49, but no further official guidance has been forthcoming.

Rev. Rul. 71–52 and Notice 87–49 remain the best statements of current law and represent the only publicly published IRS position on current law. Nevertheless, IRS agents have selectively begun seeking to collect retroactive assessments of employment taxes, including withholdings, from employers who reasonably relied on these rulings and did not subject transactions under ESPPs to such taxes.

The IRS's actions in this area are inconsistent with long-standing published IRS positions. This legislation would clarify that any income arising from transactions under ISOs and ESPPs, either upon grant or exercise, or qualifying and disqualifying disposition, is not subject to employment taxes or federal income tax withholding.

ESPPs are the primary vehicle through which rank and file workers purchase stock in their companies. However, additional tax liabilities on employees and high administrative costs for plan administration will discourage employers from offering these programs that encourage broad-based employee stock ownership. Imposing employment taxes on otherwise nontaxable transactions will weaken incentives for employees to participate. The taxes involved are very modest when compared with the compliance costs and the unfair burdens on rank-and-file workers generally.

This legislation will clarify what is sensible tax policy regarding ESPPs. More important, it will empower workers during their working years because they will be both employees and owners of the company as well as additional providers of their own retirement security. Furthermore, it will thwart the arbitrary and selective IRS actions, contrary to all previously published Treasury and IRS policies.

I am introducing the Worker Investment Protection Act in the closing days of the 106th Congress with the hope that the Secretary of the Treasury, Lawrence Summers, will clarify longstanding IRS policy, and therefore preclude the need for this legislation. If not, I intend to pursue this legislation aggressively during the next session of Congress. I urge my colleagues to support the Worker Investment Protection Act.

Mr. President, I ask unanimous consent the attached letters from the American Electronic Association, Micron Technology, and the National Association of Manufacturers in support of my efforts regarding employee stock purchase plans be made a part of the RECORD, immediately following my remarks.

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

AMERICAN ELECTRONICS ASSOCIATION,
Washington, DC, September 20, 2000.

Re tax withholding on employee stock purchase plans.

Hon. LARRY CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: On behalf of the more than 3,000 small, medium and large company members of the American Electronics Association (AEA), I am writing to express our serious concern over the issue of payroll tax withholding on stock obtained from an employee stock purchase plan (ESPP) qualified under section 423 of the Internal Revenue Code. Many of our member companies' ESPPs have been an important part of their overall compensation packages, benefiting over hundreds of thousands high-tech employees.

We are writing to express our strong support of your effort to amend the Community Renewal and New Markets Act of 2000 to ensure that purchases from Employee Stock Purchase Plans (''ESPP'') continue to enjoy the favorable tax treatment that was intended.

AeA understands that the favorable tax treatment of equity ownership by employees is in jeopardy. The Treasury is working on guidance that could reverse 30 years of IRS precedent and business practice in this area by imposing employment taxes when employees exercise ESPP options. There simply is no reason to impose employment taxes on amounts that are not subject to current income tax, and no law has changed that validates the IRS' change in position. Sound tax policy supports rules that encourage companies to continue these plans and does not weaken the incentives for rank-and-file employees to participate in them.

We support your amendment to the Community Renewal and New Markets Act of 2000 legislation that would reaffirm the positions that taxpayers have been following in good faith in this area, consistent with Congressional intent. Please feel free to contact me or AEA's Tax Counsel, Caroline Graves Hurley, if we can provide you any additional information on this matter. We appreciate your attention to this important issue.

Sincerely,

JOHN P. PALAFOUTAS,
Sr. Vice President.

MICRON TECHNOLOGY, INC.,
Boise, ID, September 20, 2000.

Hon. LARRY CRAIG,
U.S. Senate,
Washington, DC.

DEAR MR. CRAIG: Micron Technology is writing to seek your support of legislation that would confirm the long-standing treatment under the tax code of Employee Stock Purchase Plans (''ESPPs''). This issue is very important to companies like ours who encourage employee-ownership.

To provide some background, an employer is generally required to withhold income and employment taxes on ''wages'' paid to an employee. However, the IRS ruled in 1971 that the acquisition of stock by an employee pursuant to a qualified stock option does not result in the payment of ''wages'' and, therefore, is not subject to income tax withholding and employment taxes. Employers and the IRS have followed this principles for almost 30 years.

Recently, and without proper notification to taxpayers, the IRS changed its position and instructed its auditors to retroactively impose deficiency assessments on companies that failed to withhold income and employment taxes on the benefits afforded by qualified ESPPs.

There are compelling legal and policy reasons to support the position that ESPP transactions are exempt from employment taxes and Federal income tax withholding. The IRS's change of position will discourage broad-based employee stock ownership; will weaken the incentives for workers to participate in these programs; and will increase corporate compliance costs far in excess of the potential tax amounts involved.

Sincerely,

RODERIC W. LEWIS,
Vice President and General Counsel.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington, DC, September 20, 2000.

Hon. WILLIAM V. ROTH,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the National Association of Manufacturers (NAM), the ''18 million people who make things in America'' and our 14,000 small, mid-sized and large member companies, I urge you to take action this year on a proposal to clarify the tax treatment of employee stock purchase plans (ESPPs). Specifically, I encourage you to include in your Chairman's Mark of the Community Renewal and New Markets Act of 2000 an ESPP amendment officer by committee member Larry Craig.

The tax code currently includes incentives for ESPPs that employees to purchase company stock at a discount of up of 15%. For nearly 30 years, IRS has taken the position in published guidance that ESPP transactions are exempt from employment taxes and federal income tax withholding. However, over the past two years, IRS agents have sought to collect employment taxes from employers who did not subject these transactions to such taxes. The amendment offered by Sen. Craig confirms that any income from ESPP transactions is not subject to employment taxes or federal income tax withholding.

Based on our experience, ESPPs motivate employees and create entrepreneurial zeal by giving workers a stake in their company's future. In contrast, the additional tax liabilities and administrative costs of IRS' change in position will discourage employers from offering these programs. At the same time, imposing employment taxes on ESPP transactions will confuse employees and weaken incentives for them to participate. The Craig amendment will ensure that employers continue to offer ESPPs and that employees continue to benefit from company ownership. Thank you in advance for supporting this important initiative.

Sincerely,

DOROTHY COLEMAN,
Vice President, Tax Policy.

ADDITIONAL COSPONSORS

S. 751

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 751, a bill to combat nursing

home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance penalties for crimes against seniors, and for other purposes.

S. 861

At the request of Mr. DURBIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 861, a bill to designate certain Federal land in the State of Utah as wilderness, and for other purposes.

S. 1020

At the request of Mr. GRASSLEY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1020, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1510

At the request of Mr. MCCAIN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1510, a bill to revise the laws of the United States appertaining to United States cruise vessels, and for other purposes.

S. 2280

At the request of Mr. MCCONNELL, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 2280, a bill to provide for the effective punishment of online child molesters.

S. 2718

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2718, a bill to amend the Internal Revenue Code of 1986 to provide incentives to introduce new technologies to reduce energy consumption in buildings.

S. 2887

At the request of Mr. GRASSLEY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2887, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 3116

At the request of Mr. BREAUX, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 3116, a bill to amend the Harmonized Tariff Schedule of the United States to prevent circumvention of the sugar tariff-rate quotas.

S. 3139

At the request of Mr. ABRAHAM, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 3139, a bill to ensure that no alien is removed, denied a benefit under the Immigration and Nationality Act, or otherwise deprived of liberty, based on evidence that is kept secret from the alien.

S. 3152

At the request of Mr. ROTH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 3152, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for distressed areas, and for other purposes.

S. 3242

At the request of Mr. HARKIN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 3242, a bill to amend the Consolidated Farm and Rural Development Act to encourage equity investment in rural cooperatives and other rural businesses, and for other purposes.

SENATE CONCURRENT RESOLUTION 157—EXPRESSING THE SENSE OF THE CONGRESS THAT THE GOVERNMENT OF MEXICO SHOULD ADHERE TO THE TERMS OF THE 1944 UTILIZATION OF WATERS OF THE COLORADO AND TIJUANA RIVERS AND OF THE RIO GRANDE TREATY BETWEEN THE UNITED STATES AND MEXICO

Mrs. HUTCHISON (for herself and Mr. GRAMM) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 157

Whereas, the United States and Mexico signed a Treaty on Water Utilization on February 3, 1944, to divide the waters of the Rio Grande and Colorado River systems, and;

Whereas, the Treaty required Mexico to deliver a minimum of 350,000 acre feet of water per year on a five year average from six Mexican tributaries, and;

Whereas, the Treaty required the United States to deliver a minimum of 1,500,000 acre feet of water per year from the Colorado River, and;

Whereas, the United States has never failed to meet its obligations under the Treaty, and;

Whereas, during the period of 1992–1997, Mexico failed to meet its obligations under the treaty by 1,024,000 acre feet, and;

Whereas, a recent study conducted by the Texas A&M University agriculture program has determined the economic impact to South Texas from this water loss due to noncompliance with the Treaty at $441,000,000 per year;

Whereas, the Government of Mexico has not presented any plan to repay its entire water debt, as required by the Treaty; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that:

(1) The President of the United States should promptly utilize the full power of his office to bring about compliance with the 1944 Treaty on Water Utilization in order that the full requirement of water be available for United States use during the next full crop season.

(2) The United States Section of the International Boundary and Water Commission should work to bring about full compliance with the 1944 Treaty on Water Utilization and not accept any water debt or deficit repayment plan which does not provide for the full repayment of water owed.

SENATE CONCURRENT RESOLUTION 158—EXPRESSING THE SENSE OF CONGRESS REGARDING APPROPRIATE ACTIONS OF THE UNITED STATES GOVERNMENT TO FACILITATE THE SETTLEMENT OF CLAIMS OF FORMER MEMBERS OF THE ARMED FORCES AGAINST JAPANESE COMPANIES THAT PROFITED FROM THE SLAVE LABOR THAT THOSE PERSONNEL WERE FORCED TO PERFORM FOR THOSE COMPANIES AS PRISONERS OF WAR OF JAPAN DURING WORLD WAR II

Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. BINGAMAN, Mr. CONRAD, and Mrs. HUTCHISON) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 158

Whereas from December 1941 to April 1942, members of the United States Armed Forces fought valiantly against overwhelming Japanese military forces on the Bataan peninsula of the Island of Luzon in the Philippines, thereby preventing Japan from accomplishing strategic objectives necessary for achieving early military victory in the Pacific during World War II;

Whereas after receiving orders to surrender on April 9, 1942, many of those valiant combatants were taken prisoner of war by Japan and forced to march 85 miles from the Bataan peninsula to a prisoner-of-war camp at former Camp O'Donnell;

Whereas, of the members of the United States Armed Forces captured by Imperial Japanese forces during the entirety of World War II, a total of 36,260 of them survived their capture and transit to Japanese prisoner-of-war camps to be interned in those camps, and 37.3 percent of those prisoners of war died during their imprisonment in those camps:

Whereas that march resulted in more than 10,000 deaths by reason of starvation, disease, and executions;

Whereas many of those prisoners of war were transported to Japan where they were forced to perform slave labor for the benefit of private Japanese companies under barbaric conditions that included torture and inhumane treatment as to such basic human needs as shelter, feeding, sanitation, and health care;

Whereas the private Japanese companies unjustly profited from the uncompensated labor cruelly exacted from the American personnel in violation of basic human rights;

Whereas these Americans do not make any claims against the Japanese Government or the people of Japan, but, rather, seek some measure of justice from the Japanese companies that profited from their slave labor;

Whereas they have asserted claims for compensation against the private Japanese companies in various courts in the United States;

Whereas the United States Government has, to date, opposed the efforts of these Americans to receive redress for the slave labor and inhumane treatment, and has not made any efforts to facilitate discussions among the parties;

Whereas in contrast to the claims of the Americans who were prisoners of war in Japan, the Department of State has facilitated a settlement of the claims made against private German businesses by individuals who were forced into slave labor by the Government of the Third Reich of Germany for the benefit of the German businesses during World War II: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that it is in the interest of justice and fairness that the United States, through the Secretary of State or other appropriate officials, put forth its best efforts to facilitate discussions designed to resolve all issues between former members of the Armed Forces of the United States who were prisoners of war forced into slave labor for the benefit of Japanese companies during World War II and the private Japanese companies who profited from their slave labor.

AMENDMENTS SUBMITTED

MARRIAGE TAX RELIEF ACT OF 2000

FEINGOLD (AND OTHERS) AMENDMENT NO. 4354

Mr. GRASSLEY (for Mr. FEINGOLD (for himself, Mr. ABRAHAM, and Mr. LEVIN)) proposed an amendment to the bill (S. 2346) to amend the Internal Revenue Code of 1986 to reduce the marriage penalty by providing for adjustments to the standard deduction, 15-percent and 28-percent rate brackets, and earned income credit, and for other purposes: as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. STATE AND LOCAL ENFORCEMENT OF FEDERAL COMMUNICATIONS COMMISSION REGULATIONS ON USE OF CITIZENS BAND RADIO EQUIPMENT.

Section 302 of the Communications Act of 1934 (47 U.S.C. 302a) is amended by adding at the end the following:

''(f)(1) Except as provided in paragraph (2), a State or local government may enact a statute or ordinance that prohibits a violation of the following regulations of the Commission under this section:

''(A) A regulation that prohibits a use of citizens band radio equipment not authorized by the Commission.

''(B) A regulation that prohibits the unauthorized operation of citizens band radio equipment on a frequency between 24 MHz and 35 MHz.

''(2) A station that is licensed by the Commission pursuant to section 301 in any radio service for the operation at issue shall not be subject to action by a State or local government under this subsection. A State or local government statute or ordinance enacted for purposes of this subsection shall identify the exemption available under this paragraph.

''(3) The Commission shall, to the extent practicable, provide technical guidance to State and local governments regarding the detection and determination of violations of the regulations specified in paragraph (1).

''(4)(A) In addition to any other remedy authorized by law, a person affected by the decision of a State or local government agency enforcing a statute or ordinance under paragraph (1) may submit to the Commission an appeal of the decision on the grounds that the State or local government, as the case may be, enacted a statute or ordinance outside the authority provided in this subsection.

''(B) A person shall submit an appeal on a decision of a State or local government agency to the Commission under this paragraph, if at all, not later than 30 days after the date on which the decision by the State or local government agency becomes final, but prior to seeking judicial review of such decision.

''(C) The Commission shall make a determination on an appeal submitted under subparagraph (B) not later than 180 days after its submittal.

''(D) If the Commission determines under subparagraph (C) that a State or local government agency has acted outside its authority in enforcing a statute or ordinance, the Commission shall preempt the decision enforcing the statute or ordinance.

''(5) The enforcement of statute or ordinance that prohibits a violation of a regulation by a State or local government under paragraph (1) in a particular case shall not preclude the Commission from enforcing the regulation in that case concurrently.

''(6) Nothing in this subsection shall be construed to diminish or otherwise affect the jurisdiction of the Commission under this section over devices capable of interfering with radio communications.

''(7) The enforcement of a statute or ordinance by a State or local government under paragraph (1) with regard to citizens band radio equipment on board a 'commercial motor vehicle', as defined in section 31101 of title 49, United States Code, shall require probable cause to find that the commercial motor vehicle or the individual operating the vehicle is in violation of the regulations described in paragraph (1).''.

INTERNET FALSE IDENTIFICATION PREVENTION ACT OF 2000

COLLINS (AND FEINSTEIN) AMENDMENT NO. 4355

Mr. GRASSLEY (for Ms. COLLINS (for herself and Mrs. FEINSTEIN)) proposed an amendment to the bill (S. 2924) to strengthen the enforcement of Federal statutes relating to false identification and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet False Identification Prevention Act of 2000''.

SEC. 2. COORDINATING COMMITTEE ON FALSE IDENTIFICATION.

(a) IN GENERAL.—The Attorney General and the Secretary of the Treasury shall establish a coordinating committee to ensure, through existing interagency task forces or other means, that the creation and distribution of false identification documents is vigorously investigated and prosecuted.

(b) MEMBERSHIP.—The coordinating committee shall consist of the Secret Service, the Federal Bureau of Investigation, the Department of Justice, the Social Security Administration, and the Immigration and Naturalization Service.

(c) TERM.—The coordinating committee shall terminate 2 years after the effective date of this Act.

(d) REPORT.—

(1) IN GENERAL.—The Attorney General and the Secretary of the Treasury, at the end of each year of the existence of the committee, shall report to the Committees on the Judiciary of the Senate and House of Representatives on the activities of the committee.

(2) CONTENTS.—The report referred in paragraph (1) shall include—

(A) the total number of indictments and informations, guilty pleas, convictions, and acquittals resulting from the investigation and prosecution of the creation and distribution of false identification documents during the preceding year;

(B) identification of the Federal judicial districts in which the indictments and informations were filed, and in which the subsequent guilty pleas, convictions, and acquittals occurred;

(C) specification of the Federal statutes utilized for prosecution;

(D) a brief factual description of significant investigations and prosecutions; and

(E) specification of the sentence imposed as a result of each guilty plea and conviction.

SEC. 3. FALSE IDENTIFICATION.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''or'' after the semicolon;

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following:

''(7) knowingly produces or transfers a document-making implement that is designed for use in the production of a false identification document; or'';

(2) in subsection (b)(1)(D), by striking ''(7)'' and inserting ''(8)'';

(3) in subsection (b)(2)(B), by striking ''or (7)'' and inserting '', (7), or (8)'';

(4) in subsection (c)(3)(A), by inserting '', including the making available of a document by electronic means'' after ''commerce'';

(5) in subsection (d)—

(A) in paragraph (1), by inserting ''template, computer file, computer disc,'' after ''impression,'';

(B) by redesignating paragraph (6) as paragraph (8);

(C) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(D) by inserting after paragraph (2) the following:

''(3) the term 'false identification document' means an identification document of a type intended or commonly accepted for the purposes of identification of individuals that—

''(A) is not issued by or under the authority of a governmental entity; and

''(B) appears to be issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization;''; and

(E) by inserting after paragraph (6), as redesignated (previously paragraph (5)), the following:

''(7) the term 'transfer' includes making available for acquisition or use by others; and''; and

(6) by adding at the end the following:

''(i) EXCEPTION.—

''(1) IN GENERAL.—Subsection (a)(7) shall not apply to an interactive computer service used by another person to produce or transfer a document making implement in violation of that subsection except—

''(A) to the extent that such service conspires with such other person to violate subsection (a)(7);

''(B) if, with respect to the particular activity at issue, such service has knowingly permitted its computer server or system to be used to engage in, or otherwise aided and abetted, activity that is prohibited by subsection (a)(7), with specific intent of an officer, director, partner, or controlling shareholder of such service that such server or system be used for such purpose; or

''(C) if the material or activity available through such service consists primarily of material or activity that is prohibited by subsection (a)(7).

''(2) DEFINITION.—In this subsection, the term 'interactive computer service' means

an interactive computer service as that term is defined in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)), including a service, system, or access software provider that—

''(A) provides an information location tool to refer or link users to an online location, including a directory, index, or hypertext link; or

''(B) is engaged in the transmission, storage, retrieval, hosting, formatting, or translation of a communication made by another person without selection or alteration of the content of the communication, other than that done in good faith to prevent or avoid a violation of the law.''.

SEC. 4. REPEAL.

Section 1738 of title 18, United States Code, is repealed.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 90 days after the date of enactment of this Act.

PRIVILEGE OF THE FLOOR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that privileges of the floor be granted for Dr. Cate McClain, a fellow with the Aging Committee.

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

AUTHORIZING THE ENFORCEMENT BY STATE AND LOCAL GOVERNMENTS OF FCC REGULATIONS REGARDING CITIZENS BAND RADIO EQUIPMENT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2346, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2346) to authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 4354

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. FEINGOLD, for himself, Mr. ABRAHAM, and Mr. LEVIN, proposes an amendment numbered 4354.

The amendment reads as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. STATE AND LOCAL ENFORCEMENT OF FEDERAL COMMUNICATIONS COMMISSION REGULATIONS ON USE OF CITIZENS BAND RADIO EQUIPMENT.

Section 302 of the Communications Act of 1934 (47 U.S.C. 302a) is amended by adding at the end the following:

''(f)(1) Except as provided in paragraph (2), a State or local government may enact a statute or ordinance that prohibits a violation of the following regulations of the Commission under this section:

''(A) A regulation that prohibits a use of citizens band radio equipment not authorized by the Commission.

''(B) A regulation that prohibits the unauthorized operation of citizens band radio equipment on a frequency between 24 MHz and 35 MHz.

''(2) A station that is licensed by the Commission pursuant to section 301 in any radio service for the operation at issue shall not be subject to action by a State or local government under this subsection. A State or local government statute or ordinance enacted for purposes of this subsection shall identify the exemption available under this paragraph.

''(3) The Commission shall, to the exent practicable, provide technical guidance to State and local governments regarding the detection and determination of violations of the regulations specified in paragraph (1).

''(4)(A) In addition to any other remedy authorized by law, a person affected by the decision of a State or local government agency enforcing a statute or ordinance under paragraph (1) may submit to the Commission an appeal of the decision on the grounds that the State or local government, as the case may be, enacted a statute or ordinance outside the authority provided in this subsection.

''(B) A person shall submit an appeal on a decision of a State or local government agency to the Commission under this paragraph, if at all, not later than 30 days after the date on which the decision by the State or local government agency becomes final, but prior to seeking judicial review of such decision.

''(C) The Commission shall make a determination on an appeal submitted under subparagraph (B) not later than 180 days after its submittal.

''(D) If the Commission determines under subparagraph (C) that a State or local government agency has acted outside its authority in enforcing a statute or ordinance, the Commission shall preempt the decision enforcing the statute or ordinance.

''(5) The enforcement of statute or ordinance that prohibits a violation of a regulation by a State or local government under paragraph (1) in a particular case shall not preclude the Commission from enforcing the regulation in that case concurrently.

''(6) Nothing in this subsection shall be construed to diminish or otherwise affect the jurisdiction of the Commission under this section over devices capable of interfering with radio communications.

''(7) The enforcement of a statute or ordinance by a State or local government under paragraph (1) with regard to citizens band radio equipment on board a 'commercial motor vehicle', as defined in section 31101 of title 49, United States Code, shall require probable cause to find that the commercial motor vehicle or the individual operating the vehicle is in violation of the regulations described in paragraph (1).''.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 4354) was agreed to.

The bill (H.R. 2346), as amended, was read the third time and passed.

INTERNET FALSE IDENTIFICATION PREVENTION ACT OF 2000

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 861, which is S. 2924.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2924) to strengthen enforcement of Federal statutes relating to false identification, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment, as follows:

[Strike out all after the enacting clause and insert the part printed in italic.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet False Identification Prevention Act of 2000''.

SEC. 2. SPECIAL TASK FORCE ON FALSE IDENTIFICATION.

(a) IN GENERAL.—The Attorney General and the Secretary of the Treasury shall establish a task force to investigate and prosecute the creation and distribution of false identification documents.

(b) MEMBERSHIP.—The task force shall consist of the Secret Service, the Federal Bureau of Investigation, the Department of Justice, the Social Security Administration, and the Immigration and Naturalization Service.

(c) TERM.—The task force shall terminate 2 years after the effective date of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 3. FALSE IDENTIFICATION.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''or'' after the semicolon;

(B) in paragraph (7), by inserting ''or'' after the semicolon; and

(C) by adding after paragraph (7) the following:

''(8) knowingly produces or transfers a document-making implement that is designed for use in the production of a false identification document.'';

(2) in subsection (b)(2)(B), by striking ''or (7)'' and inserting '', (7), or (8)'';

(3) in subsection (c)(3)(A), by inserting '', including the making available of a document by electronic means'' after ''commerce''; and

(4) in subsection (d)—

(A) in paragraph (1), by inserting ''template, computer file, computer disc,'' after ''impression,'';

(B) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively;

(C) by inserting after paragraph (2) the following:

''(3) the term 'false identification document' means an identification document of a type intended or commonly accepted for the purposes of identification of individuals that—

''(A) is not issued by or under the authority of a governmental entity; and

''(B) appears to be issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization;''; and

(D) in paragraph (6), as redesignated (previously paragraph (5)), by inserting '', including making available for acquisition or use by others'' after ''assemble''.

SEC. 4. REPEAL.

Section 1738 of title 18, United States Code, is repealed.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 90 days after the date of enactment of this Act.

AMENDMENT NO. 4355

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Ms. COLLINS for herself and Mrs. FEINSTEIN, proposes an amendment numbered 4355.

The amendment reads as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet False Identification Prevention Act of 2000''.

SEC. 2. COORDINATING COMMITTEE ON FALSE IDENTIFICATION.

(a) IN GENERAL.—The Attorney General and the Secretary of the Treasury shall establish a coordinating committee to ensure, through existing interagency task forces or other means, that the creation and distribution of false identification documents is vigorously investigated and prosecuted.

(b) MEMBERSHIP.—The coordinating committee shall consist of the Secret Service, the Federal Bureau of Investigation, the Department of Justice, the Social Security Administration, and the Immigration and Naturalization Service.

(c) TERM.—The coordinating committee shall terminate 2 years after the effective date of this Act.

(d) REPORT.—

(1) IN GENERAL.—The Attorney General and the Secretary of the Treasury, at the end of each year of the existence of the committee, shall report to the Committees on the Judiciary of the Senate and House of Representatives on the activities of the committee.

(2) CONTENTS.—The report referred in paragraph (1) shall include—

(A) the total number of indictments and informations, guilty pleas, convictions, and acquittals resulting from the investigation and prosecution of the creation and distribution of false identification documents during the preceding year;

(B) identification of the Federal judicial districts in which the indictments and informations were filed, and in which the subsequent guilty pleas, convictions, and acquittals occurred;

(C) specification of the Federal statutes utilized for prosecution;

(D) a brief factual description of significant investigations and prosecutions; and

(E) specification of the sentence imposed as a result of each guilty plea and conviction.

SEC. 3. FALSE IDENTIFICATION.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''or'' after the semicolon;

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following:

''(7) knowingly produces or transfers a document-making implement that is designed for use in the production of a false identification document; or'';

(2) in subsection (b)(1)(D), by striking ''(7)'' and inserting ''(8)'';

(3) in subsection (b)(2)(B), by striking ''or (7)'' and inserting '', (7), or (8)'';

(4) in subsection (c)(3)(A), by inserting '', including the making available of a document by electronic means'' after ''commerce'';

(5) in subsection (d)—

(A) in paragraph (1), by inserting ''template, computer file, computer disc,'' after ''impression,'';

(B) by redesignating paragraph (6) as paragraph (8);

(C) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(D) by inserting after paragraph (2) the following:

''(3) the term 'false identification document' means an identification document of a type intended or commonly accepted for the purposes of identification of individuals that—

''(A) is not issued by or under the authority of a governmental entity; and

''(B) appears to be issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization;''; and

(E) by inserting after paragraph (6), as redesignated (previously paragraph (5)), the following:

''(7) the term 'transfer' includes making available for acquisition or use by others; and''; and

(6) by adding at the end the following:

''(i) EXCEPTION.—

''(1) IN GENERAL.—Subsection (a)(7) shall not apply to an interactive computer service used by another person to produce or transfer a document making implement in violation of that subsection except—

''(A) to the extent that such service conspires with such other person to violate subsection (a)(7);

''(B) if, with respect to the particular activity at issue, such service has knowingly permitted its computer server or system to be used to engage in, or otherwise aided and abetted, activity that is prohibited by subsection (a)(7), with specific intent of an officer, director, partner, or controlling shareholder of such service that such server or system be used for such purpose; or

''(C) if the material or activity available through such service consists primarily of material or activity that is prohibited by subsection (a)(7).

''(2) DEFINITION.—In this subsection, the term 'interactive computer service' means an interactive computer service as that term is defined in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)), including a service, system, or access software provider that—

''(A) provides an information location tool to refer or link users to an online location, including a directory, index, or hypertext link; or

''(B) is engaged in the transmission, storage, retrieval, hosting, formatting, or translation of a communication made by another person without selection or alteration of the content of the communication, other than that done in good faith to prevent or avoid a violation of the law.''.

SEC. 4. REPEAL.

Section 1738 of title 18, United States Code, is repealed.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 90 days after the date of enactment of this Act.

Ms. COLLINS. Mr. President, I am pleased that the Senate is now considering legislation I introduced to stem the proliferation of websites that distribute counterfeit identification documents and credentials over the Internet. I appreciate the timely action on this legislation by the chairman of the Judiciary Committee, Senator HATCH, as well as the support and assistance of Senators KYL, LEAHY, and FEINSTEIN. The substitute amendment proposed by Senator FEINSTEIN and me improves the bill while retaining all of its key features.

After this measure becomes law, Internet commerce in computer discs, files, and templates designed for use in the production of false identification documents will be illegal. The bill will also outlaw the practice of producing false identification containing easily removable disclaimers, a method currently used to avoid prosecution. Finally, the legislation will establish a coordinating committee to concentrate resources of several federal agencies on investigating and prosecuting the creation of false identification. I authored this legislation after the Permanent Subcommittee on Investigations, which I chair, held hearings on a disturbing new trend—the use of the Internet to manufacture and market counterfeit identification documents and credentials. Our hearing and investigation revealed the widespread availability on the Internet of a variety of fake identification documents and computer templates that allow individuals to manufacture authentic-looking IDs in the seclusion of their own homes. The Internet False Identification Prevention Act of 2000 will strengthen current law to prevent the distribution of false identification documents over the Internet and make it easier to prosecute this criminal activity.

Mr. President, the high quality of the counterfeit identification documents that can be obtained through the Internet is astounding. With little difficulty, my staff was able to use Internet materials to manufacture convincing IDs that would allow me to pass as a member of our Armed Forces, a reporter, a student at Boston University, or a licensed driver in Florida, Michigan, or Wyoming, to name just a few of the identities I could assume. For instance, using the Internet my staff created a counterfeit Connecticut driver's license that is virtually identical to an authentic license issued by the Connecticut Department of Motor Vehicles. Just like the real Connecticut license, this fake with my picture includes a signature written over the picture and an adjacent ''shadow picture'' of the license holder. The State of Connecticut added both of these sophisticated security features to the license in order to reduce counterfeiting. Unfortunately, some websites offer to sell fake IDs complete with State seals, holograms, and bar codes to replicate a license virtually indistinguishable from the real thing. Thus, technology now allows website operators to copy authentic identification documents with an extraordinary level

of sophistication and then mass produce those fraudulent documents for their customers. The websites investigated by the subcommittee offer a vast and varied product line, ranging from driver's licenses to military identification cards to federal agency credentials, including those of the Federal Bureau of Investigation (FBI) and the Central Intelligence Agency (CIA). Other sites offer to produce Social Security cards, birth certificates, diplomas, and press credentials.

Testimony before the subcommittee demonstrated that the availability of false identification documents from the Internet is a growing problem. Special Agent David Myers, Identification Fraud Coordinator of the State of Florida's Division of Alcoholic Beverages and Tobacco, testified that 2 years ago only 1 percent of false identification documents came from the Internet. Last year, he testified, a little less than 5 percent came from the Internet. Now he estimates that about 30 percent of the false identification documents he seizes comes from the Internet. He predicts that by next year his unit will find at least 60 to 70 percent of the false identification documents they seize will come from the Internet. The General Accounting Office (GAO) and the FBI have both confirmed the findings of the subcommittee's investigation. Earlier this year the GAO used counterfeit credentials and badges, readily available for purchase on the Internet, to breach the security at 19 federal buildings and two commercial airports. GAO's findings demonstrate that, in addition to the poor security measures at federal facilities, the Internet and computer technology allow nearly anyone to create convincing identification cards and credentials. The FBI has also focused on the potential for misuse of official identification, and recently executed search warrants at the homes of several individuals who had been selling federal law enforcement badges over the Internet.

In response to these findings, the House has passed legislation that will complement the provisions in the bill we currently have under consideration. H.R. 4827, the Enhanced Federal Security Act of 2000, was introduced by Congressman STEVE HORN, and would make it a crime to enter federal property under false pretenses or for an unauthorized individual to traffic in genuine or counterfeit police badges. The House bill, supported by Congressman MCCOLLUM, chairman of the House Judiciary Subcommittee on Crime, provides an additional measure to curb the use of false identification, and I hope that the Senate will approve it along with S. 2924.

Mr. President, the Internet is a revolutionary tool of commerce and communication that benefits us all. But many of the Internet's greatest attributes also further its use for criminal purposes. While the manufacture of false identification documents by criminals is nothing new, the Internet allows those specializing in the sale of counterfeit identification to reach a broader market of potential buyers than they ever could by standing on a street corner in a shady part of town. They can sell their products with virtual anonymity through the use of e-mail services and free Web hosting services, and by providing false information when registering their domain names. Similarly, the Internet allows criminals to obtain fake IDs in the privacy of their own homes, substantially diminishing the risk of apprehension that attends purchasing counterfeit documents on the street. Because this is a relatively new phenomenon, there are no good data on the size of the false identification industry or the growth it has experienced as a result of the Internet. The subcommittee's investigation, however, found that some Web site operators apparently have made hundreds of thousands of dollars through the sale of phony identification documents. One website operator that we investigated told a state law enforcement official that he sold approximately 1,000 fake IDs every month and generated about $600,000 in annual sales.

Identity theft is a growing problem that these Internet sites encourage. Recent testimony by the Federal Trade Commission noted that the number of calls to their ID theft hotline had doubled between March and July of this year, that the agency was receiving between 800 and 850 calls a week, and that their phone counselors had handled more than 20,000 calls in an 8-month period earlier this year. Fake IDs, however, facilitate a broader array of criminal conduct. The subcommittee's investigation found that some Internet sites were used to obtain counterfeit identification documents for the purpose of committing other crimes, ranging from very serious offenses such as bank fraud to the more common problem of underage teenagers buying alcohol or gaining access to bars. The legislation under consideration today is designed to address the problem of counterfeit identification documents in several ways. The central features of the bill are provisions that modernize existing law to address the widespread availability of false identification documents on the Internet.

First, the legislation strengthens federal law against false identification to ensure that it is suited to the Internet age and the technology associated with it. The primary law prohibiting the use and distribution of false identification documents was enacted in 1982. Advances in computer technology and the use of the Internet may have rendered the law inadequate to encompass the technology of the present day. This bill will clarify that current law prohibits the sale or distribution of false identification documents through computer files and templates, which our investigation found are the vehicles of choice for manufacturing fake IDs in the Internet age.

Second, the legislation will make it easier to prosecute those criminals who manufacturer, distribute or sell counterfeit identification documents by ending the practice of using easily removable disclaimers as part of an attempt to shield the illegal conduct from prosecution through a bogus claim of ''novelty.'' No longer will it be acceptable to provide computer templates of government-issued identification containing an easily removable layer saying it is not a government document.

For instance, the subcommittee staff purchased a fake Oklahoma driver's license as part of an undercover operation conducted during our investigation. The fake license appears to bear the disclaimer, ''Not a Government Document,'' which is required by federal law. We found, however, that with one simple snip of the scissors, the fake ID could be removed from his laminated pouch, effectively discarding the disclaimer. It will no longer be acceptable under my bill to sell a false identification document in this fashion.

Finally, my legislation seeks to encourage more aggressive enforcement by dedicating investigative and prosecutorial resources to this emerging problem. The bill establishes a multi-agency coordinating committee that will concentrate the investigative and prosecutorial resources of several agencies with responsibility for enforcing laws that criminalize the manufacture, sale, and distribution of counterfeit identification documents. While the new provisions are intended to cover any individual or entity using a computer disc, file, template, or the Internet to produce, transfer or make available false identification documents or document-making implements, the substitute bill makes clear that the new offense does not cover companies providing interactive computer services, such as Internet service providers, communications facilities, or electronic mail services, who are innocent conduits of false identification documents. Just as the counterfeiting laws do not cover an unknowing provider of a device or service used to manufacture or transmit counterfeit money, the provisions in this legislation are not meant to apply to unknowing parties whose devices or services are used in the production or transfer of false identification documents. This exception is inapplicable, however, and ordinary common law doctrines of criminal lability will apply in cases of conspiracy between the interactive computer service and the user; knowledge of and specific intent of an officer, director, partner or controlling shareholder that the server or system be used for this criminal purposes; or when the material available through a service consists primarily of material that is covered by the new offense in this legislation.

This bill is one in a line of bills that have been considered by Congress in recent years that address the issue of

service provider liability relevant to the unlawful conduct of third parties. These have ranged from bills dealing with the liability of service providers in cases of defamation suits, to copyright infringement actions, to criminal prosecutions for online drug trafficking, Internet gambling, and in this case, online distribution of false identification document-making implements. Through these bills, Congress has had to consider the complexities of the particular area of law at hand, the application of common law doctrines, such as respondant superior and theories of contributory and vicarious liability, and the nature of liability with respect to specific violations in both civil and criminal contexts. In short, I believe that my bill, while addressing a number of these issues, does not necessarily set a standard for Congress to follow when considering the issue of service provider liability in future bills, in future contexts.

Mr. President, our investigation established that federal law enforcement officials have failed to devote the necessary resources and attention to this serious problem. By striking at the purveyors of false identification materials, I believe we can reduce the end-use crime that often depends upon the availability of counterfeit identification. For instance, the convicted felon who testified at the subcommittee's hearing said that he would not have been able to commit bank fraud had he not been able to easily and quickly obtain high quality, fraudulent identification documents over the Internet. I am confident that, if federal law enforcement officials prosecute the most blatant violators of the law, the false ID industry on the Internet will wither in short order. By strengthening the law and by focusing our prosecution efforts, I believe that we can curb the widespread availability of false identification documents that the Internet encourages. The Director of the United States Secret Services testified at our hearing that the use of fraudulent identification documents and credentials almost always accompanies the serious financial crimes that they investigate. Thus, I believe that a stronger law against making false identification documents will deter criminal activity in other areas as well. I urge my colleagues to support S. 2924.

I ask unanimous consent to have print in the RECORD a brief section-by-section summary of the substitute for S. 2924.

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

INTERNET FALSE IDENTIFICATION PREVENTION ACT OF 2000 (COLLINS/FEINSTEIN SUBSTITUTE)—SECTION-BY-SECTION SUMMARY

Section 1 names the bill as the Internet False Identification Prevention Act of 2000.

Section 2 establishes a coordinating committee to ensure the vigorous investigation and prosecution of the creation and distribution of false identification documents. The coordinating committee, appointed by the Attorney General and the Secretary of the Treasury, shall consist of the Secret Service, the Federal Bureau of Investigation, the Department of Justice, the Social Security Administration, and the Immigration and Naturalization Service, and shall exist for two years. The coordinating committee will focus investigative and prosecutorial resources of the federal agencies concerned with false identification in order to curb this growing problem, and will report the results of agency actions each year.

Section 3 will amend 18 U.S.C. §1028 to modernize the primary federal law pertaining to false identification documents. The bill modifies the existing definition of ''document-making implement'' to include computer templates and files that are now frequently used to create counterfeit identification documents from the Internet.

A new provision will make it illegal to ''knowingly produce or transfer a document making implement that is designed for use in the production of a false identification document.'' This provision will close a loophole which currently allows a person to transfer, through a Web site or e-mail, false identification templates that can easily be made into actual finished documents. Current law will also be amended to cover, in addition to documents used in interstate or foreign commerce, any document made available by ''electronic means.'' This will ensure that a false identification document offered for download on a Web site is captured by the statute. Innocent third parties, such as Internet service providers or transmission companies, are excluded from coverage under the legislation.

Finally, this section will provide for the first time a definition of ''false identification document.'' A ''false identification document'' will be defined as a document that is intended or commonly accepted for the purpose of identification which is not issued by or under the authority of a government, but which appears to be issued by or under the authority of any government entity. This provision, in conjunction with the removal of the disclaimer provision below, will make it clear that it is illegal for anyone but a government entity to produce any document that is commonly accepted for legal identification.

Section 4 will repeal 18 U.S.C. §1738, thus ending the ability to use a disclaimer and legally produce identification documents that include the age or birth date of an individual. Repealing Section 1738 will prohibit the practice, which was frequently encountered during the Subcommittee's investigation, of attempting to avoid criminal liability for manufacturing and selling counterfeit identification products by displaying a ''NOT A GOVERNMENT DOCUMENT'' disclaimer. This type of disclaimer can be fashioned so as to be easily removable on both computer templates and counterfeit identification documents. It will now be illegal to produce or sell any document that resembles a government identification document.

Section 5 will make the provisions effective 90 days after enactment.

Mr. LEAHY. Mr. President, the Internet False Identification Prevention Act, S. 2924, is intended to provide additional tools to law enforcement to combat the theft of, and fraud associated with, identification documents and credentials. I share the concerns of the sponsors of this legislation over this matter. In fact, in the last Congress, I sponsored, along with Senators KYL, HATCH, FEINSTEIN and others, legislation to prohibit fraud in connection with identification information, not just physical documents. We recognized that criminals do not necessarily need a physical identification document to create a new identity; they just need the information itself to facilitate the creation of false identification documents.

I note that improvements to the bill as originally introduced were made during consideration of the legislation by the Senate Judiciary Committee. Specifically, as originally introduced this bill would have made it a crime to possess with intent to use or transfer any false identification document, rather than ''five or more'' as required under current law. See 18 U.S.C. 1028(a)(3). I raised concern that the scope of this proposed offense would have resulted in the federalization of the status offenses of an underage teenager using a single fake ID card. The substitute bill reported by the Judiciary Committee eliminated this change in current law.

The substitute amendment that the Senate considers today would require the Attorney General and the Secretary of the Treasury to coordinate through a ''coordinating committee'' the investigation and prosecution of offenses related to false identification documents, and report to the Judiciary Committees of the House and the Senate on the number and results of prosecutions. In addition, the substitute amendment amends 18 U.S.C. 1028 in a number of ways, including by creating a new criminal prohibition on the knowing production or transfer of a document-making implement designed for use in the production of false identification documents. A new definition is provided for the term ''transfer'' to include ''making available for acquisition or use by others.'' To address the concerns of internet service providers that the combination of the new crime and the new definitions would expose them to criminal liability, the bill also includes an exemption from the new crime for an interactive computer service.

In addition, the bill repeals 18 U.S.C. 1738, which allows businesses that sell identification documents bearing the birth date or age of the person being identified to avoid criminal liability by printing clearly and indelibly on both the front and the back ''Not a Government Document.''

While I do not object to moving this bill at this time, I must note two lingering concerns that we have to revisit. First, I appreciate that the sponsors wish to repeal 18 U.S.C. 1738 to stop the practice of selling counterfeit identification products with disclaimers that are intentionally fashioned to be easily removable on both computer templates and counterfeit identification documents but that nevertheless avoid criminal liability by displaying the disclaimer. This is a practice that deserves congressional attention, but I am concerned that repeal of this section may go too far, since it may remove legal protection for some legitimate businesses that

sell identification documents for legitimate reasons, such as for security or private guard services.

The legislative history of section 1738 makes clear that this provision was considered necessary when passed because private identification documents ''are used by many persons who have no official record of their date of birth and are unable to obtain official identification cards for that reason. The conferees determined that to simply require privately issued identification cards to carry a prominent disclaimer that they are not government documents would adequately protect the public interest.'' Conference Report on False Identification Crime Control Act of 1982 (H.R. 6946), 97th Cong., 2d Sess., Rpt. 97–975, at p. 4 (December 17, 1982). It remains unclear to me how many legitimate uses and businesses will be affected by repeal of this section, and the manner in which this repeal is being enacted makes it impossible to know in advance.

Second, the substitute amendment contains an exemption for interactive computer services that was added after consideration by the Judiciary Committee. Representatives of internet service providers expressed concern that the breadth of the intent standard in the bill, which provides that a defendant need only knowingly transfer or make available by electronic means an illegal document-making implement, such as computer template, to risk criminal liability. They contend that this scienter requirement could put at risk ISPs that simply offer a third party the ability to communicate or locate material that is otherwise illegal, even though the ISP does not know that the document-making implement can be or will be used to make false identification documents and does not intend to be facilitating an illegal transaction.

The ISPs may have correctly pointed out a problem in the scope of the criminal liability but the cure should not be to grant a blanket exemption for service providers. There is no comparable exemption anywhere else in the federal criminal code. A better cure would have been to clarify the scope of the criminal prohibition and to define more precisely the scienter requirement for criminal liability. Instead of making the new crime applicable to anyone who ''knowingly produces or transfers a document-making implement that is designed for use in the production of a false identification document,'' the bill could have been more precisely drawn to cover only a person who ''knowingly produces or transfers a document-making implement with the intent that it be used in the production of a false identification document.'' This would have avoided the necessity of carving out exemptions for innocent ISPs that merely facilitate the transfer of illegal document-making implements, without knowing the nature of the what is being transferred.

Moreover, including an immunity provision in this bill for ISPs raises a question about their criminal liability exposure under many other criminal statutes that make illegal the knowing transfer of illegal materials without requiring specific knowledge on the part of the transferor that the material is illegal. For example, federal law prohibits the knowing distribution, including by computer, of any material that contains child pornography. 18 U.S.C. 2251A(a)(2)(B). There is no blanket immunity for ISPs for facilitating the distribution of such illegal material. Will inclusion of a blanket immunity provision in this bill encourage courts to construe broadly the prohibitions in other statutes to cover innocent ISPs? This is a matter that could benefit from additional scrutiny.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the amendment be agreed to, the committee substitute amendment be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 4355) was agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2924), as amended, was passed, as follows:

S. 2924

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet False Identification Prevention Act of 2000''.

SEC. 2. COORDINATING COMMITTEE ON FALSE IDENTIFICATION.

(a) IN GENERAL.—The Attorney General and the Secretary of the Treasury shall establish a coordinating committee to ensure, through existing interagency task forces or other means, that the creation and distribution of false identification documents is vigorously investigated and prosecuted.

(b) MEMBERSHIP.—The coordinating committee shall consist of the Secret Service, the Federal Bureau of Investigation, the Department of Justice, the Social Security Administration, and the Immigration and Naturalization Service.

(c) TERM.—The coordinating committee shall terminate 2 years after the effective date of this Act.

(d) REPORT.—

(1) IN GENERAL.—The Attorney General and the Secretary of the Treasury, at the end of each year of the existence of the committee, shall report to the Committees on the Judiciary of the Senate and House of Representatives on the activities of the committee.

(2) CONTENTS.—The report referred in paragraph (1) shall include—

(A) the total number of indictments and informations, guilty pleas, convictions, and acquittals resulting from the investigation and prosecution of the creation and distribution of false identification documents during the preceding year;

(B) identification of the Federal judicial districts in which the indictments and informations were filed, and in which the subsequent guilty pleas, convictions, and acquittals occurred;

(C) specification of the Federal statutes utilized for prosecution;

(D) a brief factual description of significant investigations and prosecutions; and

(E) specification of the sentence imposed as a result of each guilty plea and conviction.

SEC. 3. FALSE IDENTIFICATION.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (6), by striking ''or'' after the semicolon;

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following:

''(7) knowingly produces or transfers a document-making implement that is designed for use in the production of a false identification document; or'';

(2) in subsection (b)(1)(D), by striking ''(7)'' and inserting ''(8)'';

(3) in subsection (b)(2)(B), by striking ''or (7)'' and inserting '', (7), or (8)'';

(4) in subsection (c)(3)(A), by inserting '', including the making available of a document by electronic means'' after ''commerce'';

(5) in subsection (d)—

(A) in paragraph (1), by inserting ''template, computer file, computer disc,'' after ''impression,'';

(B) by redesignating paragraph (6) as paragraph (8);

(C) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(D) by inserting after paragraph (2) the following:

''(3) the term 'false identification document' means an identification document of a type intended or commonly accepted for the purposes of identification of individuals that—

''(A) is not issued by or under the authority of a governmental entity; and

''(B) appears to be issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization;''; and

(E) by inserting after paragraph (6), as redesignated (previously paragraph (5)), the following:

''(7) the term 'transfer' includes making available for acquisition or use by others; and''; and

(6) by adding at the end the following:

''(i) EXCEPTION.—

''(1) IN GENERAL.—Subsection (a)(7) shall not apply to an interactive computer service used by another person to produce or transfer a document making implement in violation of that subsection except—

''(A) to the extent that such service conspires with such other person to violate subsection (a)(7);

''(B) if, with respect to the particular activity at issue, such service has knowingly permitted its computer server or system to be used to engage in, or otherwise aided and abetted, activity that is prohibited by subsection (a)(7), with specific intent of an officer, director, partner, or controlling shareholder of such service that such server or system be used for such purpose; or

''(C) if the material or activity available through such service consists primarily of material or activity that is prohibited by subsection (a)(7).

''(2) DEFINITION.—In this subsection, the term 'interactive computer service' means an interactive computer service as that term is defined in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)), including

a service, system, or access software provider that—

''(A) provides an information location tool to refer or link users to an online location, including a directory, index, or hypertext link; or

''(B) is engaged in the transmission, storage, retrieval, hosting, formatting, or translation of a communication made by another person without selection or alteration of the content of the communication, other than that done in good faith to prevent or avoid a violation of the law.''.

SEC. 4. REPEAL.

Section 1738 of title 18, United States Code, is repealed.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 90 days after the date of enactment of this Act.

EXPRESSING THE SENSE OF CONGRESS REGARDING ACTIONS OF THE UNITED STATES GOVERNMENT REGARDING CLAIMS OF FORMER MEMBERS OF THE ARMED FORCES AGAINST JAPANESE COMPANIES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 158 submitted by Senator HATCH.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 158) expressing the sense of Congress regarding appropriate actions of the U.S. Government to facilitate the settlement of claims of former members of the Armed Forces against Japanese companies that profited from the slave labor that those personnel were forced to perform for those companies as POWs of Japan during World War II.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. HATCH. I rise today with my cosponsors, Senators FEINSTEIN and BINGAMAN, in support of a sense of the Senate resolution to encourage the U.S. Government, through the State Department or other appropriate offices, to use its best efforts to open a dialog between former American POW's forced into slave labor in Japan and the private Japanese companies that profited from their labor. This is a very important issue to our veterans and I think they deserve our help.

On April 9, 1942, Allied forces in the Philippines surrendered Bataan to the Japanese. Ten to twelve thousand American soldiers were forced to march some 60 miles in broiling heat in a deadly trek known as the Bataan Death March. Following a lengthy internment under horrific conditions, thousands of POW's were shipped to Japan in the holds of freighters known as ''Hell Ships.'' Once in Japan, many of these POW's were forced into slave labor for private Japanese steel mills and other private companies until the end of the war.

Fifty years have passed since the atrocities occurred, yet our veterans are still waiting for accountability and justice. Unfortunately, global political and security needs of the time often overshadowed their legitimate claims for justice—and these former POW's were once again asked to sacrifice for their country. Following the end of the war, for example, our government allegedly instructed many of the POW's held by Japan not to discuss their experiences and treatment. Some were even asked to sign nondisclosure agreements. Consequently, many Americans remain unaware of the atrocities that took place and the suffering our POW's endured.

Following the passage of a California statute extending the statute of limitations for World War II claims until 2010 and the recent litigation involving victims of Holocaust, a new effort is underway by the former POW's in Japan to seek compensation from the private companies which profited from their labor. Let me say at the outset, that this is not a dispute with the Japanese people and these are not claims against the Japanese Government. Rather, these are private claims against the private Japanese companies that profited from the slave labor of our American soldiers who they held as prisoners. These are the same types of claims raised by survivors of the Holocaust against the private German corporations who forced them into labor.

The Senate Judiciary Committee held a hearing on the claims being made by the former American POW's against the private Japanese companies. One issue of concern for the Committee was whether the POW's held in Japan are receiving an appropriate level of advocacy from the U.S. Government. In the Holocaust litigation, the United States appropriately played a facilitating role in discussions between the German companies and the victims. The Justice Department also declined to file a statement of interest in the litigation—even when requested by the court. The efforts of the administration were entirely appropriate and the settlement, which was just recently finalized, was an invaluable step toward moving forward from the past.

Here, in contrast, there has been no effort by our Government, through the State Department or otherwise, to open a dialog between the Japanese and the former POW's. Moreover, in response to a request from the court, the Justice Department did, in fact, file two statements of interest which were very damaging to the claims of the POW's—stating in essence that their claims were barred by the 1951 Peace Treaty with Japan and the War Claims Act.

From a moral perspective, the claims of those forced into labor by private German companies and private Japanese companies appear to be of similar merit, yet they have spurred different responses from the administration. Why?

Here in the Senate, we have been doing what we can to help these former prisoners of war. With the help of Senator FEINSTEIN, we have moved through the Judiciary Committee Senate bill 1902, the Japanese Records Disclosure Act, which would set up a commission to declassify thousands of Japanese Imperial Army records held by the U.S. Government after appropriate screening for sensitive national security information and the like.

The Senate is also doing what it can to fulfill our Government's responsibility to these men by including a provision in the DOD authorization bill which would pay a $20,000 gratuity to POW's from Bataan and Corregidor who were forced into labor. Such payment would be in addition to any other payments these veterans may receive under law—and thus would not compromise any of the claims asserted in the litigation against the Japanese companies.

The bill I introduce today, an expression of the sense of the Senate that the U.S. Government should attempt to facilitate a dialog, as it did in the German case, is a logical and appropriate extension of our other efforts. Ultimately, I do not know where we will come out on the precise meaning of the Treaty. Regardless of how the technical legal issues are resolved—which the courts will determine—in light of the moral imperative and interests of simple fairness, we must ask ourselves why shouldn't the United States facilitate a dialog between the parties? When is good faith discussion a bad idea? I think we owe this much to these brave veterans and their families. I believe a good faith dialog is the first step towards a just resolution that accommodates the various moral, legal, national security, and foreign policy interests which are at play.

I urge all Members to support this amendment.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 158) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. CON. RES. 158

Whereas from December 1941 to April 1942, members of the United States Armed Forces fought valiantly against overwhelming Japanese military forces on the Bataan peninsula of the Island of Luzon in the Philippines, thereby preventing Japan from accomplishing strategic objectives necessary for achieving early military victory in the Pacific during World War II;

Whereas after receiving orders to surrender on April 9, 1942, many of those valiant combatants were taken prisoner of war by Japan and forced to march 85 miles from the Bataan peninsula to a prisoner-of-war camp at former Camp O'Donnell;

Whereas, of the members of the United States Armed Forces captured by Imperial Japanese forces during the entirety of World

War II, a total of 36,260 of them survived their capture and transit to Japanese prisoner-of-war camps to be interned in those camps, and 37.3 percent of those prisoners of war died during their imprisonment in those camps:

Whereas that march resulted in more than 10,000 deaths by reason of starvation, disease, and executions;

Whereas many of those prisoners of war were transported to Japan where they were forced to perform slave labor for the benefit of private Japanese companies under barbaric conditions that included torture and inhumane treatment as to such basic human needs as shelter, feeding, sanitation, and health care;

Whereas the private Japanese companies unjustly profited from the uncompensated labor cruelly exacted from the American personnel in violation of basic human rights;

Whereas these Americans do not make any claims against the Japanese Government or the people of Japan, but, rather, seek some measure of justice from the Japanese companies that profited from their slave labor;

Whereas they have asserted claims for compensation against the private Japanese companies in various courts in the United States;

Whereas the United States Government has, to date, opposed the efforts of these Americans to receive redress for the slave labor and inhumane treatment, and has not made any efforts to facilitate discussions among the parties;

Whereas in contrast to the claims of the Americans who were prisoners of war in Japan, the Department of State has facilitated a settlement of the claims made against private German businesses by individuals who were forced into slave labor by the Government of the Third Reich of Germany for the benefit of the German businesses during World War II: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that it is in the interest of justice and fairness that the United States, through the Secretary of State or other appropriate officials, put forth its best efforts to facilitate discussions designed to resolve all issues between former members of the Armed Forces of the United States who were prisoners of war forced into slave labor for the benefit of Japanese companies during World War II and the private Japanese companies who profited from their slave labor.

FIRE ADMINISTRATION AUTHORIZATION ACT OF 2000

Mr. GRASSLEY. I ask unanimous consent that the Chair lay before the Senate a message from the House to accompany H.R. 1550.

There being no objection, the Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1550) entitled ''An Act to authorize appropriations for the United States Fire Administration for fiscal years 2000 and 2001, and for other purposes'', with the following House amendments to Senate amendment:

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

TITLE I—UNITED STATES FIRE ADMINISTRATION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Fire Administration Authorization Act of 2000''.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(g)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (G);

(2) by striking the period at the end of subparagraph (H) and inserting a semicolon; and

(3) by adding at the end the following:

''(I) $44,753,000 for fiscal year 2001, of which $3,000,000 is for research activities, and $250,000 may be used for contracts or grants to non-Federal entities for data analysis, including general fire profiles and special fire analyses and report projects, and of which $6,000,000 is for anti-terrorism training, including associated curriculum development, for fire and emergency services personnel;

''(J) $47,800,000 for fiscal year 2002, of which $3,250,000 is for research activities, and $250,000 may be used for contracts or grants to non-Federal entities for data analysis, including general fire profiles and special fire analyses and report projects, and of which $7,000,000 is for anti-terrorism training, including associated curriculum development, for fire and emergency services personnel; and

''(K) $50,000,000 for fiscal year 2003, of which $3,500,000 is for research activities, and $250,000 may be used for contracts or grants to non-Federal entities for data analysis, including general fire profiles and special fire analyses and report projects, and of which $8,000,000 is for anti-terrorism training, including associated curriculum development, for fire and emergency services personnel.''.

None of the funds authorized for the United States Fire Administration for fiscal year 2002 may be obligated unless the Administrator has verified to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that the obligation of funds is consistent with the strategic plan transmitted under section 103 of this Act.

SEC. 103. STRATEGIC PLAN.

(a) REQUIREMENT.—Not later than April 30, 2001, the Administrator of the United States Fire Administration shall prepare and transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a 5-year strategic plan of program activities for the United States Fire Administration.

(b) CONTENTS OF PLAN.—The plan required by subsection (a) shall include—

(1) a comprehensive mission statement covering the major functions and operations of the United States Fire Administration in the areas of training; research, development, test and evaluation; new technology and non-developmental item implementation; safety; counterterrorism; data collection and analysis; and public education;

(2) general goals and objectives, including those related to outcomes, for the major functions and operations of the United States Fire Administration;

(3) a description of how the goals and objectives identified under paragraph (2) are to be achieved, including operational processes, skills and technology, and the human, capital, information, and other resources required to meet those goals and objectives;

(4) an analysis of the strengths and weaknesses of, opportunities for, and threats to the United States Fire Administration;

(5) an identification of the fire-related activities of the National Institute of Standards and Technology, the Department of Defense, and other Federal agencies, and a discussion of how those activities can be coordinated with and contribute to the achievement of the goals and objectives identified under paragraph (2);

(6) a description of objective, quantifiable performance goals needed to define the level of performance achieved by program activities in training, research, data collection and analysis, and public education, and how these performance goals relate to the general goals and objectives in the strategic plan;

(7) an identification of key factors external to the United States Fire Administration and beyond its control that could affect significantly the achievement of the general goals and objectives;

(8) a description of program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations;

(9) a plan for the timely distribution of information and educational materials to State and local firefighting services, including volunteer, career, and combination services throughout the United States;

(10) a description of how the strategic plan prepared under this section will be incorporated into the strategic plan and the performance plans and reports of the Federal Emergency Management Agency;

(11)(A) a description of the current and planned use of the Internet for the delivery of training courses by the National Fire Academy, including a listing of the types of courses and a description of each course's provisions for real time interaction between instructor and students, the number of students enrolled, and the geographic distribution of students, for the most recent fiscal year;

(B) an assessment of the availability and actual use by the National Fire Academy of Federal facilities suitable for distance education applications, including facilities with teleconferencing capabilities; and

(C) an assessment of the benefits and problems associated with delivery of instructional courses using the Internet, including limitations due to network bandwidth at training sites, the availability of suitable course materials, and the effectiveness of such courses in terms of student performance;

(12) timeline for implementing the plan; and

(13) the expected costs for implementing the plan.

SEC. 104. RESEARCH AGENDA.

(a) REQUIREMENT.—Not later than 120 days after the date of the enactment of this Act, the Administrator of the United States Fire Administration, in consultation with the Director of the Federal Emergency Management Agency, the Director of the National Institute of Standards and Technology, representatives of trade, professional, and non-profit associations, State and local firefighting services, and other appropriate entities, shall prepare and transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the United States Fire Administration's research agenda and including a plan for implementing that agenda.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall—

(1) identify research priorities;

(2) describe how the proposed research agenda will be coordinated and integrated with the programs and capabilities of the National Institute of Standards and Technology, the Department of Defense, and other Federal agencies;

(3) identify potential roles of academic, trade, professional, and non-profit associations, and other research institutions in achieving the research agenda;

(4) provide cost estimates, anticipated personnel needs, and a schedule for completing the various elements of the research agenda;

(5) describe ways to leverage resources through partnerships, cooperative agreements, and other means; and

(6) discuss how the proposed research agenda will enhance training, improve State and local firefighting services, impact standards and codes, increase firefighter and public safety, and advance firefighting techniques.

(c) USE IN PREPARING STRATEGIC PLAN.—The research agenda prepared under this section shall be used in the preparation of the strategic plan required by section 103.

SEC. 105. SURPLUS AND EXCESS FEDERAL EQUIPMENT.

The Federal Fire Prevention and Control Act of 1974 is amended by adding at the end the following new section:

"SEC. 33. SURPLUS AND EXCESS FEDERAL EQUIPMENT.

''The Administrator shall make publicly available, including through the Internet, information on procedures for acquiring surplus and excess equipment or property that may be useful to State and local fire, emergency, and hazardous material handling service providers.''.

SEC. 106. COOPERATIVE AGREEMENTS WITH FEDERAL FACILITIES.

The Federal Fire Prevention and Control Act of 1974, as amended by section 105, is amended by adding at the end the following new section:

"SEC. 34. COOPERATIVE AGREEMENTS WITH FEDERAL FACILITIES.

''The Administrator shall make publicly available, including through the Internet, information on procedures for establishing cooperative agreements between State and local fire and emergency services and Federal facilities in their region relating to the provision of fire and emergency services.''.

SEC. 107. NEED FOR ADDITIONAL TRAINING IN COUNTERTERRORISM.

(a) IN GENERAL.—The Administrator of the United States Fire Administration shall conduct an assessment of the need for additional capabilities for Federal counterterrorism training of emergency response personnel.

(b) CONTENTS OF ASSESSMENT.—The assessment conducted under this section shall include—

(1) a review of the counterterrorism training programs offered by the United States Fire Administration and other Federal agencies;

(2) an estimate of the number and types of emergency response personnel that have, during the period between January 1, 1994, and October 1, 1999, sought training described in paragraph (1), but have been unable to receive that training as a result of the oversubscription of the training capabilities; and

(3) a recommendation on the need to provide additional Federal counterterrorism training centers, including—

(A) an analysis of existing Federal facilities that could be used as counterterrorism training facilities; and

(B) a cost-benefit analysis of the establishment of such counterterrorism training facilities.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall prepare and submit to the Congress a report on the results of the assessment conducted under this section.

SEC. 108. WORCESTER POLYTECHNIC INSTITUTE FIRE SAFETY RESEARCH PROGRAM.

From the funds authorized to be appropriated by the amendments made by section 102, $1,000,000 may be expended for the Worcester Polytechnic Institute fire safety research program.

SEC. 109. INTERNET AVAILABILITY OF INFORMATION.

Upon the conclusion of the research under a research grant or award of $50,000 made with funds authorized by this title (or any amendments made by this title), the Administrator of the United States Fire Administration shall make available through the Internet home page of the Administration a brief summary of the results and importance of such research grant or award. Nothing in this section shall be construed to require or permit the release of any information prohibited by law or regulation from being released to the public.

SEC. 110. CONFORMING AMENDMENTS AND REPEALS.

(a) 1974 ACT.—

(1) IN GENERAL.—The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended—

(A) by striking subsection (b) of section 10 (15 U.S.C. 2209) and redesignating subsection (c) of that section as subsection (b);

(B) by striking sections 26 and 27 (15 U.S.C. 2222; 2223);

(C) by striking ''(a) The'' in section 24 (15 U.S.C. 2220) and inserting ''The''; and

(D) by striking subsection (b) of section 24.

(2) REFERENCES TO SECRETARY.—The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended—

(A) in section 4 (15 U.S.C. 2203)—

(i) by inserting ''and'' after the semicolon in paragraph (7);

(ii) by striking paragraph (8); and

(iii) by redesignating paragraph (9) as paragraph (8);

(B) by striking ''Secretary'' and inserting ''Director''—

(i) in section 5(b) (15 U.S.C. 2204(b));

(ii) each place it appears in section 7 (15 U.S.C. 2206);

(iii) the first place it appears in section 11(c) (15 U.S.C. 2210(c));

(iv) in section 15(b)(2), (c), and (f) (15 U.S.C. 2214(b)(2), (c), and (f));

(v) the second place it appears in section 15(e)(1)(A) (15 U.S.C. 2214(e)(1)(A));

(vi) in section 16 (15 U.S.C. 2215);

(vii) the second place it appears in section 19(a) (42 U.S.C. 290a(a));

(viii) both places it appears in section 20 (15 U.S.C. 2217); and

(ix) in section 21(c) (15 U.S.C. 2218(c)); and

(C) in section 15, by striking ''Secretary's'' each place it appears and inserting ''Director's''.

(b) DEPARTMENT OF COMMERCE.—Section 12 of the Act of February 14, 1903 (15 U.S.C. 1511) is amended—

(1) by inserting ''and'' after ''Census;'' in paragraph (5);

(2) by striking paragraph (6); and

(3) by redesignating paragraph (7) as paragraph (6).

SEC. 111. NATIONAL FIRE ACADEMY CURRICULUM REVIEW.

(a) IN GENERAL.—The Administrator of the United States Fire Administration, in consultation with the Board of Visitors and representatives of trade and professional associations, State and local firefighting services, and other appropriate entities, shall conduct a review of the courses of instruction available at the National Fire Academy to ensure that they are up-to-date and complement, not duplicate, courses of instruction offered elsewhere. Not later than 180 days after the date of enactment of this Act, the Administrator shall prepare and submit a report to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall—

(1) examine and assess the courses of instruction offered by the National Fire Academy;

(2) identify redundant and out-of-date courses of instruction;

(3) examine the current and future impact of information technology on National Fire Academy curricula, methods of instruction, and delivery of services; and

(4) make recommendations for updating the curriculum, methods of instruction, and delivery of services by the National Fire Academy considering current and future needs, State-based curricula, advances in information technologies, and other relevant factors.

SEC. 112. REPEAL OF EXCEPTION TO FIRE SAFETY REQUIREMENT.

(a) REPEAL.—Section 4 of Public Law 103–195 (107 Stat. 2298) is hereby repealed.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 1 year after the date of the enactment of this Act.

SEC. 113. NATIONAL FALLEN FIREFIGHTERS FOUNDATION TECHNICAL CORRECTIONS.

(a) PURPOSES.—Section 151302 of title 36, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) primarily—

''(A) to encourage, accept, and administer private gifts of property for the benefit of the National Fallen Firefighters' Memorial and the annual memorial service associated with the memorial; and

''(B) to, in coordination with the Federal Government and fire services (as that term is defined in section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203)), plan, direct, and manage the memorial service referred to in subparagraph (A);'';

(2) by inserting ''and Federal'' in paragraph (2) after ''non-Federal'';

(3) in paragraph (3)—

(A) by striking ''State and local'' and inserting ''Federal, State, and local''; and

(B) by striking ''and'' after the semicolon;

(4) by striking ''firefighters.'' in paragraph (4) and inserting ''firefighters;''; and

(5) by adding at the end the following:

''(5) to provide for a national program to assist families of fallen firefighters and fire departments in dealing with line-of-duty deaths of those firefighters; and

''(6) to promote national, State, and local initiatives to increase public awareness of fire and life safety.''.

(b) BOARD OF DIRECTORS.—Section 151303 of title 36, United States Code, is amended—

(1) by striking subsections (f) and (g) and inserting the following:

''(f) STATUS AND COMPENSATION.—

''(1) Appointment to the board shall not constitute employment by or the holding of an office of the United States.

''(2) Members of the board shall serve without compensation.''; and

(2) by redesignating subsection (h) as subsection (g).

(c) OFFICERS AND EMPLOYEES.—Section 151304 of title 36, United States Code, is amended—

(1) by striking ''not more than 2'' in subsection (a); and

(2) by striking ''are not'' in subsection (b)(1) and inserting ''shall not be considered''.

(d) SUPPORT BY THE ADMINISTRATOR.—Section 151307(a)(1) of title 36, United States Code, is amended—

(1) by striking ''The Administrator'' and inserting ''During the 10-year period beginning on the date of enactment of the Fire Administration Authorization Act of 2000, the Administrator''; and

(2) by striking ''shall'' in subparagraph (B) and inserting ''may''.

TITLE II—EARTHQUAKE HAZARDS REDUCTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Earthquake Hazards Reduction Authorization Act of 2000''.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

(a) FEDERAL EMERGENCY MANAGEMENT AGENCY.—Section 12(a)(7) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)(7)) is amended—

(1) by striking ''and'' after ''1998,''; and

(2) by striking ''1999.'' and inserting ''1999; $19,861,000 for the fiscal year ending September 30, 2001, of which $450,000 is for National Earthquake Hazard Reduction Program-eligible efforts of an established multi-state consortium to reduce the unacceptable threat of earthquake damages in the New Madrid seismic region through efforts to enhance preparedness, response, recovery, and mitigation; $20,705,000 for the fiscal year ending September 30, 2002; and $21,585,000 for the fiscal year ending September 30, 2003.''.

(b) UNITED STATES GEOLOGICAL SURVEY.—Section 12(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(b)) is amended—

(1) by inserting after ''operated by the Agency.'' the following: ''There are authorized to be appropriated to the Secretary of the Interior for purposes of carrying out, through the Director of the United States Geological Survey, the responsibilities that may be assigned to the Director under this Act $48,360,000 for fiscal year 2001, of which $3,500,000 is for the Global Seismic Network and $100,000 is for the Scientific Earthquake Studies Advisory Committee established under section 210 of the Earthquake Hazards Reduction Authorization Act of 2000; $50,415,000 for fiscal year 2002, of which $3,600,000 is for the Global Seismic Network and $100,000 is for the Scientific Earthquake Studies Advisory Committee; and $52,558,000 for fiscal year 2003, of which $3,700,000 is for the Global Seismic Network and $100,000 is for the Scientific Earthquake Studies Advisory Committee.'';

(2) by striking ''and'' at the end of paragraph (1);

(3) by striking ''1999,'' at the end of paragraph (2) and inserting ''1999;''; and

(4) by inserting after paragraph (2) the following:

''(3) $9,000,000 of the amount authorized to be appropriated for fiscal year 2001;

''(4) $9,250,000 of the amount authorized to be appropriated for fiscal year 2002; and

''(5) $9,500,000 of the amount authorized to be appropriated for fiscal year 2003,''.

(c) REAL-TIME SEISMIC HAZARD WARNING SYSTEM.—Section 2(a)(7) of the Act entitled ''An Act To authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1998 and 1999, and for other purposes'' (111 Stat. 1159; 42 U.S.C. 7704 nt) is amended by striking ''1999.'' and inserting ''1999; $2,600,000 for fiscal year 2001; $2,710,000 for fiscal year 2002; and $2,825,000 for fiscal year 2003.''.

(d) NATIONAL SCIENCE FOUNDATION.—Section 12(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(c)) is amended—

(1) by striking ''1998, and'' and inserting ''1998,''; and

(2) by inserting after ''1999.'' the following: ''There are authorized to be appropriated to the National Science Foundation $19,000,000 for engineering research and $11,900,000 for geosciences research for fiscal year 2001; $19,808,000 for engineering research and $12,406,000 for geosciences research for fiscal year 2002; and $20,650,000 for engineering research and $12,933,000 for geosciences research for fiscal year 2003.''.

(e) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—Section 12(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(d)) is amended—

(1) by striking ''1998, and''; and inserting ''1998,''; and

(2) by striking ''1999.'' and inserting ''1999, $2,332,000 for fiscal year 2001, $2,431,000 for fiscal year 2002, and $2,534,300 for fiscal year 2003.''.

SEC. 203. REPEALS.

Section 10 and subsections (e) and (f) of section 12 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7705d and 7706 (e) and (f)) are repealed.

SEC. 204. ADVANCED NATIONAL SEISMIC RESEARCH AND MONITORING SYSTEM.

The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.) is amended by adding at the end the following new section:

''SEC. 13. ADVANCED NATIONAL SEISMIC RESEARCH AND MONITORING SYSTEM.

''(a) ESTABLISHMENT.—The Director of the United States Geological Survey shall establish and operate an Advanced National Seismic Research and Monitoring System. The purpose of such system shall be to organize, modernize, standardize, and stabilize the national, regional, and urban seismic monitoring systems in the United States, including sensors, recorders, and data analysis centers, into a coordinated system that will measure and record the full range of frequencies and amplitudes exhibited by seismic waves, in order to enhance earthquake research and warning capabilities.

''(b) MANAGEMENT PLAN.—Not later than 90 days after the date of the enactment of the Earthquake Hazards Reduction Authorization Act of 2000, the Director of the United States Geological Survey shall transmit to the Congress a 5-year management plan for establishing and operating the Advanced National Seismic Research and Monitoring System. The plan shall include annual cost estimates for both modernization and operation, milestones, standards, and performance goals, as well as plans for securing the participation of all existing networks in the Advanced National Seismic Research and Monitoring System and for establishing new, or enhancing existing, partnerships to leverage resources.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) EXPANSION AND MODERNIZATION.—In addition to amounts appropriated under section 12(b), there are authorized to be appropriated to the Secretary of the Interior, to be used by the Director of the United States Geological Survey to establish the Advanced National Seismic Research and Monitoring System—

''(A) $33,500,000 for fiscal year 2002;

''(B) $33,700,000 for fiscal year 2003;

''(C) $35,100,000 for fiscal year 2004;

''(D) $35,000,000 for fiscal year 2005; and

''(E) $33,500,000 for fiscal year 2006.

''(2) OPERATION.—In addition to amounts appropriated under section 12(b), there are authorized to be appropriated to the Secretary of the Interior, to be used by the Director of the United States Geological Survey to operate the Advanced National Seismic Research and Monitoring System—

''(A) $4,500,000 for fiscal year 2002; and

''(B) $10,300,000 for fiscal year 2003.''.

SEC. 205. NETWORK FOR EARTHQUAKE ENGINEERING SIMULATION.

The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.) is further amended by adding at the end the following new section:

''SEC. 14. NETWORK FOR EARTHQUAKE ENGINEERING SIMULATION.

''(a) ESTABLISHMENT.—The Director of the National Science Foundation shall establish the George E. Brown, Jr. Network for Earthquake Engineering Simulation that will upgrade, link, and integrate a system of geographically distributed experimental facilities for earthquake engineering testing of full-sized structures and their components and partial-scale physical models. The system shall be integrated through networking software so that integrated models and databases can be used to create model-based simulation, and the components of the system shall be interconnected with a computer network and allow for remote access, information sharing, and collaborative research.

''(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts appropriated under section 12(c), there are authorized to be appropriated to the National Science Foundation for the George E. Brown, Jr. Network for Earthquake Engineering Simulation—

''(1) $28,200,000 for fiscal year 2001;

''(2) $24,400,000 for fiscal year 2002;

''(3) $4,500,000 for fiscal year 2003; and

''(4) $17,000,000 for fiscal year 2004.''.

SEC. 206. BUDGET COORDINATION.

Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended—

(1) by striking subparagraph (A) of subsection (b)(1) and redesignating subparagraphs (B) through (F) of subsection (b)(1) as subparagraphs (A) through (E), respectively; and

(2) by adding at the end the following new subsection:

''(c) BUDGET COORDINATION.—

''(1) GUIDANCE.—The Agency shall each year provide guidance to the other Program agencies concerning the preparation of requests for appropriations for activities related to the Program, and shall prepare, in conjunction with the other Program agencies, an annual Program budget to be submitted to the Office of Management and Budget.

''(2) REPORTS.—Each Program agency shall include with its annual request for appropriations submitted to the Office of Management and Budget a report that—

''(A) identifies each element of the proposed Program activities of the agency;

''(B) specifies how each of these activities contributes to the Program; and

''(C) states the portion of its request for appropriations allocated to each element of the Program.''.

SEC. 207. REPORT ON AT-RISK POPULATIONS.

Not later than one year after the date of the enactment of this Act, and after a period for public comment, the Director of the Federal Emergency Management Agency shall transmit to the Congress a report describing the elements of the Program that specifically address the needs of at-risk populations, including the elderly, persons with disabilities, non-English-speaking families, single-parent households, and the poor. Such report shall also identify additional actions that could be taken to address those needs and make recommendations for any additional legislative authority required to take such actions.

SEC. 208. PUBLIC ACCESS TO EARTHQUAKE INFORMATION.

Section 5(b)(2)(A)(ii) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)(2)(A)(ii)) is amended by inserting '', and development of means of increasing public access to available locality-specific information that may assist the public in preparing for or responding to earthquakes'' after ''and the general public''.

SEC. 209. LIFELINES.

Section 4(6) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7703(6)) is amended by inserting ''and infrastructure'' after ''communication facilities''.

SEC. 210. SCIENTIFIC EARTHQUAKE STUDIES ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Director of the United States Geological Survey shall establish a Scientific Earthquake Studies Advisory Committee.

(b) ORGANIZATION.—The Director shall establish procedures for selection of individuals not employed by the Federal Government who are qualified in the seismic sciences and other appropriate fields and may, pursuant to such procedures, select up to ten individuals, one of whom shall be designated Chairman, to serve on the Advisory Committee. Selection of individuals for the Advisory Committee shall be based solely on established records of distinguished service, and the Director shall ensure that a reasonable cross-section of views and expertise is represented. In selecting individuals to serve on the Advisory Committee, the Director shall seek and give due consideration to recommendations from the National Academy of Sciences, professional societies, and other appropriate organizations.

(c) MEETINGS.—The Advisory Committee shall meet at such times and places as may be designated by the Chairman in consultation with the Director.

(d) DUTIES.—The Advisory Committee shall advise the Director on matters relating to the United States Geological Survey's participation in the National Earthquake Hazards Reduction Program, including the United States Geological Survey's roles, goals, and objectives within that Program, its capabilities and research needs, guidance on achieving major objectives, and establishing and measuring performance goals. The Advisory Committee shall issue an annual report to the Director for submission to Congress on or before September 30 of each year. The report shall describe the Advisory Committee's activities and address policy issues or matters that

affect the United States Geological Survey's participation in the National Earthquake Hazards Reduction Program.

Amend the title so as to read as follows: ''An Act to authorize appropriations for the United States Fire Administration, and for carrying out the Earthquake Hazards Reduction Act of 1977, for fiscal years 2001, 2002, and 2003, and for other purposes.''.

Mr. GRASSLEY. I ask unanimous consent that the Senate agree to the House amendments.

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

LIBRARY OF CONGRESS FISCAL OPERATIONS IMPROVEMENT ACT OF 2000

Mr. GRASSLEY. I ask unanimous consent that the Senate now proceed to the consideration of H.R. 5410, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5410) to establish revolving funds for the operation of certain programs and activities of the Library of Congress, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 5410) was read the third time and passed.

ORDERS FOR WEDNESDAY, NOVEMBER 1, 2000

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

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

Mr. WELLSTONE. Mr. President, I object. We need to have a discussion about this.

The PRESIDING OFFICER. The objection is heard.

Mr. GRASSLEY. I yield 15 minutes, and hopefully less, to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

BANKRUPTCY REFORM

Mr. ENZI. Mr. President, I congratulate the distinguished Senator from Iowa, Mr. GRASSLEY, for all of the work he has done on bankruptcy. He has shown some real leadership and he has pulled a bipartisan group of people together to get this incredibly important work done.

The United States has been saying to other countries that if they were going to get the International Monetary Fund moneys to bail them out, they have to do bankruptcy reform. Guess who are the last ones demanding that other people do bankruptcy reform.

I thank the Senator from Iowa for his efforts on this, the people he has brought into it from both sides of the aisle, and I thank the Senator from Alabama for his incredible record, too.

BUDGET NEGOTIATIONS

Mr. ENZI. Mr. President, I need to address a slightly different issue at this point, to again explain why we are where we are. I began in June with regular speeches about how we were going to wind up in this position: The other side of the aisle was objecting to motions to proceed to appropriations bills and the extended debate we had to have on whether we could debate put the Senate in a situation where we had to do all of our negotiations with the White House, instead of, as the Constitution says, where the Senate will determine in conjunction with the House the expenditures of this Nation.

That is exactly what has happened. There has been delay after delay after delay that has pushed the appropriations process to this point. Yesterday, the President vetoed the Treasury-Postal bill. Through a quote from Congress Daily, we learn a top administration official confirmed Wednesday that the President will sign it; we didn't need to make changes to it.

There is a lot of speculation why this was vetoed. The President said yesterday there was nothing really wrong with the Treasury-Postal bill, but he just didn't think we ought to have that bill signed until we complete the few other remaining bills. He arbitrarily vetoed the bill after a top administration official said the President would sign it and after the Democratic leadership in Congress had agreed to it.

The President keeps moving the goalposts in an attempt to provoke a confrontation with Congress. As a result, it has made negotiations next to impossible. How can you negotiate when the commitments aren't kept, when the rules aren't followed?

One most important to me is the ergonomics amendment. That is an amendment passed in the Senate on a bipartisan vote. The exact same amendment was passed on the House side by a bipartisan vote. Labor-HHS has some monetary items that are different between the two sides but not that amendment. A conference committee was formed and they met. The White House said, we don't like the amendment on ergonomics. Both sides of the conference committee said that is not conferenceable. It was the same on both sides.

Now, because we get in this little bit of a jam and the President gets a little more leverage in his negotiations, we are now at a point where some of the leadership had said, OK, we won't make it a year's delay before more work can be done on OSHA with ergonomics; it will only be until March 1st. In the last minutes, that goalpost was moved again. The President said, no, I want to be able to put it into effect, and they can take it out of effect if there is a new administration next year.

Let me state how difficult a procedure that would be. It would be next to impossible to remove an absolutely ridiculous rule that is landsliding through this place by an agency out of control, that has known what it wanted to do from the very first day that it wrote the rule. It has done every single thing it can to make sure that rule comes into effect. They don't care who doesn't like it.

Our ergonomics amendment, which delays it one year, is not about whether we should have an ergonomics rule. It is not a prohibition against an ergonomics rule. It is most definitely not a dispute about the importance of safety for American workers. We need to have safety for American workers, but we need to do it the right way.

This amendment was passed in a bipartisan way. It is imperative that Congress insists there be a reasonable amount of time on this rule. The rule was only published a year ago. They are anticipating that maybe they can even squeak by before there is agreement and get this rule finalized and approved. That will be quicker than OSHA has done a rule. That would be record time.

They mention this was brought up about 12 or 13 years ago. There has not been agreement on it since that time. It never got published until a year ago. There has been no official action until a year ago.

Let me state why we ought to be concerned about this rule and why the delay occurred, in a bipartisan way, for a year. People didn't approve of the way OSHA was handling it, the way they were going about it. OSHA paid over 70 contractors a total of $1.75 million to help with the ergonomics rule. They paid 28 contractors $10,000 each to testify at the public rulemaking hearings. They didn't only pay the witnesses to testify; they didn't notify the public, and then they assisted the witnesses with the preparation of their testimony. Then they brought them in for practice runs for the hearing. Then they paid them to tear apart the testimony of the opposition. That is not the way we do things around here.

That resulted in people on both sides of the aisle being extremely upset with the way it was handled. The way that OSHA has handled this gives every indication that the way they wrote it is the way it has to be; that they are not going to pay attention to any of the comments or the additional testimony. They knew they were right when they

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Iowa.

ORDERS FOR WEDNESDAY, NOVEMBER 1, 2000

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

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

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

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

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

PROGRAM

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

ORDER FOR RECESS

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

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

BANKRUPTCY

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

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

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

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

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

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

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

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

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

Re S. 625 [Bankruptcy Reform Act].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Yours very truly,

PHILIP L. STRAUSS,
Assistant District Attorney.

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

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

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

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

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

I yield the floor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. One minute.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RECESS UNTIL 9:30 A.M. TOMORROW

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

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

NOMINATIONS

Executive nominations received by the Senate October 31, 2000:

INTER-AMERICAN FOUNDATION

GEORGE MUNOZ, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2004, VICE MARK L. SCHNEIDER, TERM EXPIRED.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

C. E. ABRAMSON, OF MONTANA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2005. (REAPPOINTMENT)