''He's one of my favorite people in the whole world because he wears his heroism with such extraordinary modesty,'' said Sen. Carl Levin (D-Mich.).

Senators like 51-year-old Tim Johnson (D-S.D.) seem awed by getting the chance to serve with Glenn.

''It's like serving with a legend,'' said Johnson. ''The fact that I served with John Glenn is something I'll tell my grandkids.''

As a young Navy pilot, Sen. John McCain (R-Ariz.) revered Glenn and says the upcoming mission will remind everyone of that.

''I know it will just affirm in people's minds that we're privileged to have known a great American hero,'' he said. ''I am honored to be in his company. I am serious. I am honored to be in his company.''

Sen. Richard Bryan (D-Nev.) said he will try to be in Florida, partially because of a simple expression of love he saw when Bonnie Bryan and Annie Glenn recently traveled together to Saudi Arabia. From across the globe, Mrs. Glenn placed a phone call to her husband in the Senate cloakroom.

Bryan recalled, ''He was very excited and came up to me and said, 'I've got Annie on the line, would you like to talk to Bonnie?' John and Annie have this very special relationship—you can sense that.''

Leahy recalled riding in the back seat one time as the Glenns kept teasing and poking fun at one another in front seat.

''The two of them are like a pair of teenagers,'' he said.

But a much sadder occasion reminded Leahy of his affection for the couple. When Leahy's mother died last year, he found out that the Glenns had been trying to lift her spirits during her illness.

''One of the things I found on her bed stand was a handwritten note from John and Annie,'' said Leahy. ''They both had written a couple of paragraphs in the letter. These are very special people.''

For Glenn, his frequent trips to Houston for training seem to have been a sort of fountain of youth.

Every time Glenn returns from Houston, said Sen. Richard Lugar (R-Ind.), he's been updated about the status of the mission. ''It's wonderful to see someone so engaged and lit up with enthusiasm,'' he said.

It has also reminded Glenn about the differences between his two careers.

''Here of course, the political lines are drawn and you have confrontation and you have to put everything through a political sieve to know what's real and what isn't in people's minds,'' he said.

''Back when I was in the Mercury program or in the program down there now, it's such a pleasure to work in that program because everything is so focused on one objective that everybody's agreed on.''

The similarities between the two jobs, he concluded, are limited.

''Both fields take a lot of dedication to accomplish anything. That would be a big similarity, dedication to country and dedication to what you're doing. But that's about where the similarities end.''

Mr. LEAHY. I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Iowa.

BANKRUPTCY REFORM ACT OF 1998—CONFERENCE REPORT

MOTION TO PROCEED

The Senate resumed consideration of the motion to proceed to the conference report.

Mr. GRASSLEY. Mr. President, the business before the Senate is the motion to proceed on the bankruptcy conference report.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRASSLEY. Mr. President, as we take up the conference report to the bankruptcy bill, I want to make clear that this report is a balanced and fair compromise between the House and Senate bankruptcy bills. The fact of the matter is that the process of a conference is a process of joining two bills that have passed both Houses in different forms.

One of the key differences between the House and Senate was the question of means testing. The House had a very strict formula, while the Senate bill contained a change to a section of the bankruptcy code which directs judges to consider repayment capacity.

On this point of means testing, the House had one provision formula driven, very much different from the Senate provision that was more subjective in the decision of a judge of whether somebody should be in chapter 7 or chapter 13. But, obviously, even in the Senate bill, we had penalties and incentives for people who should be filing under chapter 13 but, in fact, filed under chapter 7. We had these differences on means testing between the House and the Senate.

Under the conference report that is now before us, a debtor can file in any chapter of the bankruptcy code, and before a debtor can be transferred from chapter 7 to chapter 13, a judge will review the merits of each case.

Mr. President, I think this is important to understand because we provide that every single person who wants their day in court with due process will get it, because under the conference report, each debtor will receive an individual hearing and get a chance to press his or her own case. In other words, the conference report maintains the judicial scrutiny that I think was the distinguishing factor of the Senate bill's means test. Of course, we have a flexible means test before us today that is a product of the conference compromise.

When the Senate considered my bankruptcy reform bill, I spoke at length about the need for reform, and I would like to restate those points as we go to final consideration, after this conference report was overwhelmingly passed by the House of Representatives just a few hours ago.

The need for this bill is based upon the statistics of bankruptcy, and those statistics speak for themselves. The number of bankruptcy filings has skyrocketed in recent years. In 1994, the total number of nonbusiness filings was just over 780,000, probably thought to be too much at that time, and maybe the number was too high at that time. But in 1996, this figure jumped to 1.1 million, and, astonishingly, the 1997 figure was almost 1.35 million. Of course, the trend is continuing.

There is no letup in the dramatic increase in the number of personal bankruptcies being filed even this very day in this country, because filings for the first quarter of 1998 are over 20,000 higher than for the same time last year. They are almost 90,000 ahead of the first quarter of 1996. Unfortunately, the future looks even bleaker. A study released just a few days ago predicted that the number of personal bankruptcies will exceed 2.2 million by the year 2001.

If there is any better reason or rationale for the adoption of this conference report by this body before we go home for recess, it is that the high number of personal bankruptcy filings is continuing to shoot up at a tremendous rate, unjustified for the economic conditions we are in. We think 1.4 million is too high. In 3 years—in 2½ years—they will be well over 2 million if we don't do something about it, and I think this legislation will do something about it.

The interesting and alarming thing is that this unprecedented increase in the filings for bankruptcy comes at a time when our economy is very, very healthy. Disposable income is up, unemployment is very low, and the interest rates are very low.

Here is something that just does not make sense, then. Common sense and basic economics would say that when times are as good as they are now—almost the longest peacetime recovery this country has ever had—when the economy is flourishing, that bankruptcies should not shoot up as well; that is, unless there is something wrong. And there is something wrong.

The bankruptcy code is flawed. There is need for reform. There is not any shame connected with bankruptcy anymore. There is lack of personal responsibility. There is lack of corporate responsibility, as well as credit card companies are pushing credit cards into mailboxes every day. And the bankruptcy bar is not adequately counseling people as to whether or not they should even be in bankruptcy, let alone discouraging them from being in chapter 7 when they should be in chapter 13. But with all of these put together, Mr. President, in my view, the main problem in our bankruptcy law, quite simply, is that current law discourages personal responsibility.

Let me start out by saying that most people who declare bankruptcy because of their low incomes, their inability to pay, probably are correct in doing so. When I say that, that does not counteract what I just said about assuming personal responsibility or not having some shame connected with bankruptcy. But as far as our present law is concerned, and their ability to repay, I would have to say that that is probably where they should be.

But that does not mean that we do not have a responsibility through our society and through the standards set by our Government to do something about the fact that so many people are in bankruptcy in the first place. We will have to deal with that sometime

other than in this legislation, because this legislation is dealing with the fact that those who have the ability to repay ought to not get off scot-free. But if you do not have the ability to repay, then, of course, that is another consideration. You have to deal with that in some ways differently than what we do in this legislation.

Estimates vary, but about 80 percent of the people who declare bankruptcy are in desperate straits. And then under the principle that we have had for the last 100 years in our bankruptcy laws, particularly if this is in situations beyond their control—like natural disaster, death, divorce, medical problems—then they may need to get a fresh start.

The problem is, Mr. President, as I have already hinted, some people use bankruptcy as a financial planning tool. They do it to get out of paying off debts which they could pay off. And that is what is pushing the desire for bankruptcy reform. We have a bankruptcy system that lets higher-income people write off their debts with no questions asked and no real way for creditors to prevent this from happening. And this legislation deals with that unjust situation—unjust for creditors, unjust for consumers, because consumers pay it, and too just for people who have the ability to repay.

As I said so often last year, we had a record number of Americans filing for bankruptcy. Of course each bankruptcy case means that someone who extended credit in good faith will not get paid. While estimates differ as to the exact number, American businesses are losing about $40 billion a year as a result of consumer bankruptcy.

You might say, well, big banks and big businesses are in somewhat of a stronger position since they can offset these losses by increasing the amount that they charge other customers. That is an important point, Mr. President. Under the best of circumstances, where a big business can stay afloat in the face of large losses due to bankruptcies, then it is simple: Honest customers pay the price because there is no free lunch. This is like a hidden tax—a hidden bankruptcy tax—which consumers pay, people who play by the rules pay. Because, as businesses end up writing off their debts in bankruptcy, the consumers make it up.

So my legislation would reduce this tax by requiring those consumers who can afford to pay, who have the capacity to make good on their debts, or even some portion thereof, to do so. But that is the situation with big businesses that can pass it on. They can survive in the face of huge bankruptcy losses. They stay in business. They get consumers coming to their door. The consumers pay. But there are a lot of small business people who have to close their doors because maybe they cannot afford to absorb the loss of so much income and consequently do not have the ability to pass it on to their consumers. The Bankruptcy Reform Act limits complete debt relief to only those who cannot repay their debts. Those who can repay their debts are required to do that. And of course, that is common sense.

That is one important aspect of the legislation, the means testing provisions of it. There was a compromise between the House and the Senate. The House had that very strict formula that decided whether a person was in bankruptcy 13 or bankruptcy 7. We had a subjective judgment with encouragement for people to be in chapter 13 and penalties to those who went into 7 when they had the ability to repay and should have been in 13. But it was very subjective, and it took motions by creditors. It took action by trustees to bring that about, and it took penalties against lawyers who were not properly counseling the debtor. So we joined these together to have the bright line of the House version of who should be in chapter 13, but we also make sure that every debtor gets their day in court with due process to make sure they have been treated fairly.

So we move on to another hot-button issue. On this issue the Senate prevailed. The conference report still provides that child support obligations must be paid during any bankruptcy proceeding.

You can see here in this chart, under the conference report, child support and alimony receive first priority. Child support must be paid in full before debt forgiveness. You can see across here, under current law child support/alimony is seventh in priority. We move that to first in priority. You can see that under present law there is no requirement to pay child support before debt forgiveness in chapter 13. Child support must be paid in full before debt forgiveness. Under the conference report, bankruptcy trumps wage garnishment for child support. Under the conference report, bankruptcy does not trump wage garnishment for child support. And lastly, and added to child support, collections are exempt from automatic stay.

The reason that it is important to put child support claimants at the top of the list during bankruptcy proceedings is that most bankrupts do not have enough money to pay all creditors in full. So somebody is not going to be paid. This bill makes it more certain that child support will be paid in full before other creditors can collect a penny. That is real progress in making sure that children and former spouses are treated fairly.

I know this was very much a concern of many members of the Judiciary Committee, including my distinguished ranking member, Senator DURBIN of Illinois, and other members of the committee. I know it is very much a concern of people at the White House. I hope, first of all, that they understand there was no intent of changing this in the original legislation, but I guess it is the way combinations can work, that there was some suspect that this could happen, but I hope that we make it very, very clear that families and children and spouses are first. We have moved it from seventh to first.

Also, the conference report provides that someone owed child support can enforce their obligations even against the exempt property of a bankrupt. This means that wealthy bankrupts can't hide their assets in expensive homes or in pension funds as a way of stiffing their children or their ex-spouses. This is another example of how this legislation will help—not hurt—child support claimants. And rightly so.

This conference report states that debtors receiving child support don't have to count that income when calculating a repayable schedule.

Outside the bankruptcy context, when there are delinquent child or spousal support obligations, State government agencies often step in and try to help collect that child support. The conference report exempts these collection efforts from the automatic stay. The automatic stay is a court injunction which automatically arises when anyone declares bankruptcy, and it prevents creditors from collecting on their debts.

Now, if this legislation were to pass, State agencies would be in a much better position to collect past due child support. In practical terms, that means that State government agencies attempting to collect child support can garnish wages and suspend driver's licenses and professional licenses—plenty of incentive for people to get on the stick and keep their social obligations to the families they have been a part of, benefited from, and to the children that they ought to love in the first place.

Clearly, this will help State governments in catching deadbeats who want to use the bankruptcy system to get out of paying child support. In fact, the district attorneys who actually collect child support strongly support this conference report. So any argument that this conference report is bad for child support is empty political rhetoric.

If I could go to another chart, the conference report also maintains tough fines against creditors who misuse their new powers to harass or intimidate honest consumers, rather than to stop abuses. I think the chart shows what we are doing. I can tell you that this was a very key feature of the Senate bill. Whenever we give creditors a new tool, we also give debtors a new shield to rein in potential creditor abuses. If it is wrong for a debtor to avoid personal responsibility, it is wrong for creditors to misuse the bankruptcy code in an unethical way, as well.

I think it is amazing that we hear from our Democratic friends that we should oppose this conference report, as I think we will, because we limit the ability of unscrupulous trial lawyers to bring class actions against the bankruptcy code. Now, I think that is a very

telling point. It seems that those who oppose this bill do not really oppose it because they are worried about consumers. They might oppose it because they want to help trial lawyers clean their pockets. I hope my colleagues will keep this in mind as we consider this conference report.

There is another example of how the conference report gives debtors important new tools to defer, to deter and punish abusive creditor conduct. In the last few years, there have been a number of reports about creditors coercing debtors into agreeing to paying their debts even though the debt could be wiped away in bankruptcy. The bankruptcy code allows debtors to reaffirm debts if they choose to do so voluntarily. The problem is that some companies have been threatening consumers in order to force reaffirmation. The conference report gives every debtor the right to a hearing before a bankruptcy judge who will review the agreement to make sure that there has been no coercion. This is a crucially important change to protect consumers.

I want to make one last point in regard to this chart. We have ''truth in advertising'' requirements for bankruptcy lawyers. It seems to me this is very, very important. In the original debate on this bill before it went to conference, 2 or 3 weeks ago, the point was made that some lawyers with the bankruptcy mills were advising people through advertising that they had the ability to avoid paying alimony and other things. ''Truth in advertising'' is very important in any business. It is just as important in the legal profession.

Debtors get new rights to court hearings to stop unfair debt collection practices.

It promotes out-of-court settlements by punishing creditors who refuse to negotiate. We think there ought to be the willingness and the obligation, when somebody who is greatly in debt and wants to work something out without going through the costly and adversarial environment of the court, they ought to be able to. That incentive is in here.

And it requires credit card companies to point out the dangers of making only the minimum payments.

Finally, the conference report makes important changes to help prevent the collapse of the financial sector when a party to a swap or a repurchase agreement defaults on an obligation. These changes were suggested by our Secretary of the Treasury, Robert Rubin. As President Clinton put it, we are in a serious financial crisis and we need to reduce systematic risk in the financial markets now.

This conference report, I think, is balanced and fair. I am sure that we will hear that it is not. Obviously, it is not entirely to my liking. No conference report is to everyone's liking. The essence of this legislative process, when a House and a Senate pass different versions of the bill, is that there be compromise. Actually, the differences in these versions was greater than you would normally have between pieces of legislation passed by the respective bodies and much more difficult to do.

I want to repeat for our colleagues, as well as for his constituents in Illinois, Senator DURBIN has been very, very cooperative throughout this process. We have had a bipartisan bill through the Senate. The process of compromise detracted from that, I am sorry to say. I was hoping that we would have a bill by the last week in July so we could have the whole month of September to work on the tremendous differences between the House and Senate. But things didn't work out the way I wanted them to and I am sure they didn't work out the way our distinguished Senate majority leader, TRENT LOTT, wanted them to work out, so this bill came out during the third week of September.

Now here we are about ready to adjourn for the year and to go home and campaign. That process was not handled in the spirit of bipartisanship that I had planned a year and a half ago when I started working on this legislation, and that has been the practice not only through the Senate, but through conference in previous times. Some of that probably was within my control, but most of it was outside of my control. So the extent to which the last step did not encompass the spirit of bipartisanship that I had anticipated a year and a half ago, I apologize to my friend, the Senator from Illinois.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Let me say at the outset, my respect for my colleague, Senator GRASSLEY of Iowa, has not been diminished by this experience, but enhanced. It has been a joy to work with him over the last year and a half in preparing this important legislation. It is complex. It is difficult. He has shown both legislative and intellectual stamina throughout. He has been fair in his dealings with me, and to the moment where we were successful in passing this bill on the floor of the Senate by an overwhelming vote of 97–1, a strong bipartisan vote, I think we both took pride in the fact that we had given it virtually everything that we could to make the best possible legislation for a very difficult challenge.

Having said that, I will knowledge, as the Senator from Iowa has, that once that bill left the Senate floor, once the conferees were appointed, a totally different process took place, which was very disappointing to me. It was totally different in that it was not bipartisan. In fact, as I stand here today and look up at the clerk's desk and see the conference report from this committee, this is the first time I have ever laid eyes on it. I wasn't there. I wasn't invited to the conference committee meetings. I wasn't asked to sign the conference committee report. In fact, virtually no Democrats—at least on the Senate side—were involved in any of that negotiation. That is truly unfortunate.

There is no reason why this had to be a partisan endeavor. Senator GRASSLEY and I proved that in working together on a bipartisan basis we could come up with a good and balanced bill. In fact, when this issue first came to me and people representing banks and the credit industry came to my office, I said to them: I agree with you, there are abuses in the bankruptcy system that need to be cleaned up. I will help you clean them up if, and only if, you will concede that there are also abuses when it comes to credit cards in America that need to be cleaned up as well.

Each bank, each merchant, each credit card company said, without fail: We agree. We are in for both sides to be repaired, both sides to be changed, and reform to come that will really affect bankruptcy in the future.

The Senate bill did that. The Senate bill said: Yes, we will clean up the bankruptcy court, but we will also say to the credit card companies, you have a responsibility to clean up your act. It also said to creditors that when it comes to the whole question of your efforts, if there are predatory credit practices that are, in fact, unfair, those credit practices will not allow you a ticket into the bankruptcy court.

UNANIMOUS CONSENT REQUEST

Mr. President, before proceeding, I ask unanimous consent that the previously scheduled vote now occur at 5:50 p.m. this evening.

Mr. BAUCUS. Mr. President, reserving the right to object. If I might ask the manager if I may speak 5 minutes before 5:50. Otherwise, I will object. I ask the managers of the bill if they can assure me they will give me 5 minutes.

Mr. GRASSLEY. I will not speak anymore.

Mr. BAUCUS. Otherwise, I will object.

Mr. DURBIN. Mr. President, can we have some indication from other Members on the floor of the time they might need? Perhaps we can come to some accommodation.

Mr. SESSIONS. Mr. President, the Senator from Alabama would like about 10 minutes on the bankruptcy bill. There are 10 minutes set aside for me now.

Mr. DURBIN. How much time would the Senator from Ohio need?

Mr. DEWINE. I would like 8 minutes.

Mr. DURBIN. That is 23 minutes. I would have to sit down, and that would be a painful experience at this moment. I will withdraw the unanimous consent request at this point.

The PRESIDING OFFICER. The request is withdrawn.

Mr. DURBIN. Mr. President, I am concerned that when we set about dealing with the bankruptcy code and reform, we tried to do it in a balanced fashion in the Senate bill.

Tonight, when you go home, open the mailbox, and you know what you are

going to find—preapproved credit card applications. If you are an average American, you get 28 a year. If you happen to be in the prime target group, you get many more. A college student, in the first 6 months they are in college, can expect to be inundated. You are 18 years old and you can sign a contract; they can't wait to get you. The dean of students at the University of Indiana tells us that the No. 1 reason kids are leaving school at Indiana is not grades, it is credit card debt. That is what is happening.

So when there is a speech made about the shame of bankruptcy, what about the shame of some of these credit practices?

So what did we suggest be changed as part of this debate? Let me give you an idea of one thing in the Senate bill that was totally rejected by the conference committee. The banks and credit card companies said: This is unreasonable, we don't want it in the bill. This example credit card statement belongs to a staff member who probably used this as a basis for acquiring more salary. We have added to this a provision that would have been from the Senate bill. We would put it at the bottom of your statement, a tiny paragraph, which says: if you pay only the minimum payment due and make no new purchases or advances, it will take you x number of months to pay off your balance, and the total cost will be approximately x.

Does that sound like an outrageous request of a credit card company—that we as consumers would know what the minimum monthly payment means in terms of indebtedness?

This individual has a balance of $1,295. They asked him to make a minimum payment of $26. If we put our provision on this, we would be telling him it would take him 93 months—almost 8 years—to pay off the bill. When it is all said and done, he would be paying $2,418, or almost double the amount of the current balance.

I don't think consumers should be in any way tricked or deceived or the facts concealed. Yet, that is what is happening because this conference committee felt that it was unreasonable to put that burden on a credit card company.

We had another provision that said that these predatory lenders that go after senior citizens—primarily widows in their late years—in the family home, and sign them up for siding and roofs and home repair with a second mortgage with a balloon, and take the house away because they have deceived some poor person, should not be able to walk into bankruptcy court and execute their claim against that person and their home. Predatory credit practices would not allow you a ticket to the bankruptcy court. As soon as this got in conference committee, they ripped it out and said: We don't want to go that far.

Let me tell you what happened as a result. We received a letter from the Director of the Office of Management and Budget. Mr. Lew has written to us—in fact, to the leaders of Congress—within the last 2 days, to say that if this conference report is presented to the President, his senior advisers will recommend that he veto it. Why? Because it is unreasonable. This conference report could have been so good, could have been so fair and so balanced, and it is not.

When it comes to the test that they are going to put someone in bankruptcy court, this is inflexible and unforgiving. Frankly, as a result of it, a lot of people who don't have resources and should not be put through this wringer will face it.

In addition to that is the whole question of class actions. I will concede to the Senator from Iowa that there are undoubtedly class action lawyers who are unscrupulous, but there are also class action lawyers who stand up for consumers who could not afford a day in court by themselves.

Consider this: A major retailer in the United States of America, as a matter of policy, has a coercive practice that when you are in bankruptcy court, they put the hammer on you as a debtor and say: We don't want you to have our debt written off. We want to tell you that you have to re-sign up to pay off this debt on this refrigerator—or car, or set of tools. They put the pressure on them. The person, under pressure, signs it. And it turns out to be a national policy. In fact, it is a national scandal. Only by class action suits on behalf of debtors across America can you go after these major banks and major retailers.

This conference report removes the right of debtors, through classes, to come to court. That was a right under the law before we even considered bankruptcy code reform. And so not only does this bill take away new protections for consumers, it takes away the existing protections for consumers—another reason why the President's Director of the Office of Management and Budget says they will veto this bill, as I believe they should.

There has been a lot said about child support and alimony. Consider how many of the people who go into bankruptcy court have an obligation to pay for the debts of their children and are, frankly, facing a lot of other debts and wondering how they will pay them off. The bottom line on this bill, as the letter from Mr. Lew indicates, is that they are putting more people in line to draw from the limited assets of estates. So a spouse trying to raise children and looking for child support, when they walk out the door in bankruptcy, has less money to turn to.

This bill, unfortunately, does not provide the kind of protection that I believe is absolutely necessary.

When we came to this Senate floor, we adopted a variety of consumer protection provisions that really gave balance to this bill. Almost without exception every single one of them was removed in this conference committee.

The credit industry that promised us they would give us a balanced bill, that they would agree to end abusive practices in their own industry—when they went into that conference committee and closed the door, they basically broke the deal. They walked out of that door with the conference committee report to their liking. The conference committee report, which they are lauding, is one which most of us believe is, frankly, a bill that should not be signed into law.

It is one sided. It is designed to reward the credit industry and to penalize the average consumer. They save the worst treatment for the unlucky families facing bankruptcy. They held aside the mother who depends on child support so that coercive creditors can claim the limited assets of bankrupt spouses. They refuse to protect the widow bilked out of her home by a home repair con artist. They refuse to provide any new credit card disclosure so that consumers can better understand the termination of their card agreements, or monthly bills.

Our purpose in this bill on this side was never to ration credit, but only to say that credit should be more rational, that each of us, as we enter into agreements for credit cards, should be able to understand the terms of the those credit cards and make our own decisions for ourselves, our families, and our businesses. Each and every time we attempted to do that in the bankruptcy bill, it was stripped out in the conference report.

What did they put in instead? A study—a study. So when it comes to nailing the consumers going into bankruptcy court, we need laws. When it comes to protecting the consumers who are trying to understand the terms of credit, they need studies.

That isn't balanced. And that isn't fair.

I think, frankly, that they have gutted the current law which protects consumers in bankruptcy from creditor abuse and manipulation.

This bill rips into low- and middle-income families and still lets the Florida and Texas millionaires hide their assets in mansions featured in Architectural Digest.

What am I talking about? Let's get specific.

There is an actor we have all heard of named Burt Reynolds. Mr. Reynolds is going through bankruptcy. He had a chain of restaurants and that chain of restaurants, unfortunately for him, failed. So when he reached the end of his rope, he decided to file for bankruptcy. But Mr. Reynolds happens to be a resident in the State of Florida.

If you happen to be a lucky resident of a State like Florida or Texas or Kansas, you can buy whatever size home at whatever expense you care to, and basically it is protected from bankruptcy. The rest of us living in other States would find in bankruptcy court that we are only protected to a limited extent. In those States, you are virtually unprotected.

Mr. Reynolds—this is reported in the newspaper; it is not some privileged information—is going to be able to protect a home in bankruptcy valued at $2.5 million.

This has been called the worst single scandal and abuse in the bankruptcy system.

If we set out to clean up the system, how did we overlook this glaring problem? Because, frankly, there are an awful lot of politically powerful people who do not want to see this changed.

We see a former commissioner of baseball moving to Florida and filing for bankruptcy so he can put as much of his assets as possible into a home that can't be attached under bankruptcy.

A former Governor of Texas filing for bankruptcy is buying 200 acres of ranch land protected from bankruptcy. And the average person walking into a bankruptcy court across America doesn't have that kind of a sweetheart deal.

We cleaned that up in the Senate bill. And the conference committee, when they closed the door, basically stripped it out. They made some changes—I will give them credit for that—some modifications.

But when it comes to dealing with the amendment offered by Senator KOHL of Wisconsin, Senator SESSIONS of Alabama, they are not even close.

If you are talking the shame of bankruptcy, I think it is shameful that we would allow that kind of loophole to continue and say that we have passed a meaningful reform bill.

I come here today in opposition to this bill. I am glad that the administration has indicated that it will veto the bill.

I have said to Senator GRASSLEY and all others who are interested in this subject that I want a fair bill, one that is fair to consumers as well as to creditors. The door is still open for us to come and sit together and try to achieve that.

But those who think they can push this through, that they can slam-dunk this change without taking into consideration the protection of consumers, I think have really done a disservice to families across America—families who count on this Senate and their House of Representatives to listen to their interests, not just to the interests of the banks and the credit industry and the institutions which can afford the high-paid lobbyists in this town.

A few days after our bill passed in the Senate, I ran into a banking lobbyist in this town who said to me with a smile, ''When it is all said and done, your consumer protections are gone.'' She seemed to know already what the outcome would be. I didn't think that was going to happen. I thought when we got into conference we would be able to protect consumers. It didn't happen. What we got was a study—a study instead of a law. A law doesn't protect anybody unless it is enforced. And a study has never protected anybody even if it is enforced.

We need to make certain that if we are going to have real bankruptcy reform, it is balanced reform.

I hope this conference report is ultimately defeated. I hope it is vetoed by the President. I hope we will return to the table and in the spirit of bipartisanship guide us to a Senate bill that passed 97 to 1 on a bipartisan basis. I hope we will come up with that balanced legislation.

I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the distinguished Senator from Illinois. He did a good amount of work. He worked hard on this bill in committee. He worked hard on it to the very end. He was a champion of it in the committee. It came out of our committee by a 17-to-2 vote. It passed in the Senate with only one negative vote. Then we went into conference with the House. I am convinced that the bill is better today after having been be in conference than it was before it left, even though I had to give up some things that I favored.

I certainly agree with the idea that this homestead situation, where millionaires move off, buy mansions, and then declare bankruptcy, is a scandal.

But I am telling you, I was amazed how many Senators from States who have those homestead exemptions, mistakenly in my view, felt very strongly that this somehow abrogated their State law, their State constitutions. Their opposition, as Senator GRASSLEY knows, jeopardized the ability of the bill to pass. We made some modest progress towards restraining this abuse.

Senator GRASSLEY said he was prepared to let us take it up again next year and see what we could do then. But in order to move the bill, we made some progress rather than no progress on this issue. I certainly believe we can do better.

This bill passed the House with 300 affirmative votes; 75 Democrats supported it. I really do not agree with the assertions that this is not good bipartisan legislation.

It really hurts me to hear the Senator say that this bill guts the protections that were in the Senate version. This bill institutes protections for debtors, but it does set some standards in bankruptcy. It will not let an individual come in and wipe out all of their debt without any explanation or any justification for it. They have to justify that they need this radical protection.

With regard to the question of fairness, we have been on this bill for years now. Senator GRASSLEY has met and met and met. He worked very hard and had the bipartisan support of his Senate Judiciary Committee and his subcommittee on this bill. Senator DURBIN is the ranking member of it. The staff on Sunday met for 7 hours. They met 10 hours with the Democratic staff between Sunday and Wednesday of this week discussing this bill. They were asked to sign the conference report and they chose not to. Those of us who supported the bill signed it. The Democrats refused to do so. Obviously, at some point, they made a decision they were going to object to this bill. I don't believe the majority of the Senators want to do that in either party. It came out of this body and the other body with overwhelming support.

It is stunning to me. I know there is a campaign theme about this ''do-nothing Congress.'' The President has been suggesting that.

This is a good historic piece of legislation. We haven't made a major improvement bankruptcy laws since 1978. A lot of work has gone into this reform. This is major legislation setting forth major progress. And, all of a sudden now, at the last minute, all of the objections come up. I suppose they will accuse us of not being able too pass the bankruptcy legislation.

But I want to say this: I think some people who killed this bill are going to have to answer why. I don't believe it is going to be a satisfactory explanation to say that they voted against it because it prohibited trial lawyers from bringing a bunch of class actions. Only within the area of a finite part of the bankruptcy law are class actions prohibited.

That is almost an insignificant part of this bill. And to raise that now and suggest it is a basis to oppose this bill suggests to me just how good a bill it is, if that is all they can find to fuss about. Maybe this suggests that it is trial lawyers making the phone calls and stirring up the opposition. It really is frustrating to see a man of the ability, the patience and the integrity of Senator GRASSLEY bring this bill up with the great support he had from both parties and see it now being jeopardized by a Presidential veto.

I would hate for that to happen. I believe when the President actually studies this bill carefully, he is going to conclude ti is a historic improvement over the present law, that he cannot justify not signing it, that it will be good for America and that he will sign it. I certainly hope that is true.

Let me mention a couple of things about the bill. We have several pages of restrictions on credit. There is a whole section of this bill entitled ''Enhanced Disclosures on the Open End Credit Plan.'' We went into credit cards and some of that stuff, but this is not a banking bill. This is not a credit card bill. This is a bill to improve bankruptcy, not credit cards. Attaching and raising all those issues is something that ought to be done by the Banking Committee. But we included some restrictions, a number of restrictions, and we put in this bill a study required to be done by the Federal Reserve Board to help us develop a way to control any abuses in the credit card industry. I think it will be a step forward.

This is a not a stonewall. Here at the last minute we don't have to be creating movement from bankruptcy to credit cards. I feel strongly about that.

Let me just mention a couple of things the bill does. It, for the first time, states that if you have plenty of money to pay back a lot of your debts, you ought to do so. So if you can pay back 50 percent, 70 percent of your debts, you ought to go into chapter 13. The court will protect you from lawsuits and creditors, and you set up a payment plan and you can pay back those creditors a portion of what you owe if you have sufficient income.

Now, the standard used for income is the national median income for a family of four. This means that the person would have to make over $50,000 a year to be required to pay any back. If they make less than that, they can stay in the chapter 7 and wipe out all of their debts. So I don't think the standard is very high at all. But people who are wealthy, have money, ought to pay back some of their debts. And many of them can pay all of their debts back.

That is the historic step. It is only fair. And it is just not moral to allow people to not pay their just debts when they are capable of doing so.

I see the distinguished chairman of the Senate Judiciary Committee has come in the Chamber. I have a couple of minutes remaining. I will be delighted to yield for any comments he has. He has been a strong leader in this legislation.

I yield the floor.

Mr. HATCH addressed the Chair.

the PRESIDING OFFICER. the Senator from Utah is recognized.

Mr. BAUCUS. Mr. President, will the Senator yield?

Mr. HATCH. Without losing my right to the floor.

Mr. BAUCUS. I just wonder if the Senator will give am a few minutes. I have been in the Chamber for over a half hour waiting. I would appreciate the Senator yielding.

Mr. HATCH. how much time would the Senator want?

Mr. BAUCUS. Three to 4 minutes.

Mr. HATCH. Could the Senator do it in 2?

Mr. BAUCUS. Three.

Mr. HATCH. Three. Three minutes. Go ahead.

Mr. BAUCUS. I thank the Senator very much.

Mr. HATCH. Without losing my right to the floor.

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

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I thank my good friend from Utah for his graciousness in yielding me 3 minutes.

RELOCATION OF LOCAL POST OFFICES

Mr. BAUCUS. Mr. President, I want to talk about something very simple. It is about post offices and particularly small town or community post offices. Our first Postmaster General was Benjamin Franklin, 200 years ago. And, obviously, at that time post offices were very important to Americans. It was a local gathering place; it was a meeting place, in addition to sending and receiving mail. And the same is true today in small town America, in some of our smaller communities and even some of our larger communities.

For example, in my State of Montana, let's take Livingston, the post office is where people meet to compare notes, talk about what the fly hatch is on the Yellowstone so they will know what to go fishing with. And maybe Red Lodge, MT—collect the mail and talk about what happened at the most recent track meet. The same is true in Plains, MT, a post office that has been there for 115 years.

The problem is this: The Postal Service recently, in my judgment, has not treated communities fairly because it has come in and closed local post offices and often rebuilt them outside of town to essentially destroy the local character of the community.

Senator JEFFORDS and I offered an amendment on the Treasury-Postal appropriations bill. It passed the Senate by a vote of 76 to 21. A similar version passed the House. Essentially, we are just providing for notice so that local communities, when the Postal Service decides to come in and close a post office or move it, would have a chance to have a hearing, would have an opportunity to have notice, would have an opportunity to have some say in their community.

Today, under Postal Service regulations, local people don't have a say. They don't have the ability to influence, in any meaningful way, where their post office is located or whether it should be closed.

I think that is wrong. I regret saying this, but the conferees on the bill stripped our amendment, even though it passed the Senate 76 to 21, and even though it had very large support in the House.

That is just not right. It is not fair. It is not fair to those folks in communities who very much rely on their post office. We are just asking for a fair process so the local people have the opportunity to have some say in their community so that Uncle Sam, Uncle Postal Service, doesn't ram down their throats a solution that doesn't make sense. I regret to say the conferees did not include it, and next year I will reintroduce the legislation, I am sure, along with Senator JEFFORDS. That provision, unfortunately, is not in the bill.

Again, I thank my good friend from Utah, and I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

BANKRUPTCY REFORM ACT OF 1998—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. HATCH. Mr. President, what this legislation will accomplish is straightforward. If a person is able to repay their debts, they will be required to do so. We must restore personal responsibility to the bankruptcy system. If we do not, every family in America, many of whom struggle to make ends meet, will continue to shoulder the financial burden of those who abuse the system.

It always has been my view that individuals should take personal responsibility for their debts, and repay them to the extent possible. Under the present system, it is too easy for debtors who have the ability to repay some of what they owe to file for chapter 7 bankruptcy. Under chapter 7, debtors can liquidate their assets and discharge all debt, while protecting certain assets from liquidation, irrespective of their income. Mr. President, I believe that the complete extinguishing of debt should be reserved for debtors who truly cannot repay them.

Mr. President, let's think about this problem in fundamental terms. Let's say that somebody owes you money, and is perfectly able to pay you back However, this person finds a clever way under Federal law to avoid paying you. That would be wrong—it would be unfair. Yet, we are allowing this to happen every day in our bankruptcy courts. We have a system woefully in need of reform. The bankruptcy system was never intended to be a means for people who are perfectly able to repay their debts to get out of paying them. It was designed to be a last resort for people who truly need it. What our bill does is allow those who truly need bankruptcy relief to have it, but requires those who can repay their debts to do so. This is not a novel concept. It is basic fairness.

Americans agree that bankruptcy should be based on need. As this chart demonstrates, 87 percent believe that an individual who files for bankruptcy should be required to repay as much of their debt as they are able to and then be allowed to extinguish the rest. Yet, as stated in the Wall Street Journal (Nov. 8, 1996) bankruptcy protection laws give an alarming number of ''obscure, but perfectly legal places for anyone to hide assets.'' For instance, one Virginian multimillionaire incurred massive debt, but under State law was entitled to keep certain household goods, farm equipment, and ''one horse.'' This particular individual opted to keep a $640,000 race horse.

This bill does a number of things to make ti harder for people who can repay their debts to avoid doing so by using loopholes in the present bankruptcy system.

It provides a needs-based means test approach to bankruptcy, under which debtors who can repay some of their debts are required to do so. It contains new measures to protect against fraud in bankruptcy, such as a requirement that debtors supply income tax returns and pay stubs, audits of bankruptcy