

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will immediately proceed to a cloture vote on H.R. 2415, the bankruptcy legislation. Following the vote, it is hoped, if cloture is invoked, that there will be a reasonable amount of postcloture debate time to be followed by a vote on the adoption of the conference report.

As a reminder, the Senate will recess for the weekly party conferences from 12:30 to 2:15 p.m.

Also, today a vote on a continuing resolution may be necessary. But we are working on how that will be handled, and we should be able to determine that right after this recorded vote. If there is a vote on the continuing resolution, it is expected to be late this afternoon. But we are seeing if some other arrangement can be worked out. Senators will be notified if and when that vote is scheduled.

BANKRUPTCY REFORM

Mr. KENNEDY. Mr. President, I urge the Senate to reject the motion to invoke cloture on this flawed legislation. For three years, proponents and opponents of this so-called Bankruptcy Reform Act have disagreed about the merits of the bill. The credit card industry argues that the bill will eliminate fraud and abuse without denying bankruptcy relief to Americans who truly need it.

But scores of bankruptcy scholars, advocates for women and children, labor unions, consumer advocates, and civil rights organizations believe that the current bill is so flawed that it will do far more harm than good.

Every Member of the Senate must analyze these arguments closely and separate the myths from the facts. I believe a fair analysis leads to the conclusion that this bankruptcy bill is the credit industry's wish list to increase its profits at the expense of working families.

Proponents of the bankruptcy legislation argue that the current bill is an appropriate response to the bankruptcy crisis. But the facts indicate the opposite. The crisis is overstated, if it exists at all, and is no justification for this sweetheart deal for the credit card industry.

For several years, bankruptcy filings were on the rise. But current data reflect a decrease in filings. The so-called bankruptcy crisis has reversed itself—without congressional assistance. According to a report last month, the personal bankruptcy rate dropped by more than 9 percent in 1999, and continued to decline at a greater than 6 percent annual rate in the first nine months of this year. Bankruptcies are now at substantially lower levels than in 1997, 1998, or 1999. There have been 138,000 fewer personal bankruptcies in the current year than during the corresponding period of 1998, a cumulative two-year decline of over 15 percent.

This decline in personal bankruptcies is consistent with the view held by leading economists—the bankruptcy crisis is correcting itself. A harsh bankruptcy bill is unnecessary.

Supporters of the bill also argue that we need tough new legislation to eliminate fraud and abuse in the bankruptcy system and to instill responsibility in debtors. The argument sounds good, but it masks the truth about this excessively harsh and punitive bill.

The current bill is based on biased studies that have been bought and paid for by industry dollars and an industry public relations campaign that unfairly characterizes the plight of honest Americans. Supporters of a bankruptcy overhaul initially relied on a Credit Research Center report in 1997, which estimated that 30 percent of Chapter 7 debtors in the sample could pay at least 21 percent of their debts. But, as the Congressional General Accounting Office responded, "the methods used in the Center's analysis do not provide a sound basis for generalizing the Center report's findings to the . . . national population of personal bankruptcy filings."

VISA U.S.A. and MasterCard International funded several additional studies. One study determined that losses due to personal bankruptcies in 1997 totaled more than \$44 billion. This study appears to be the source of the creditor rhetoric that bankruptcy imposes a hidden tax on each American family of \$400 every year. But once again, the GAO concluded that the study's findings are shaky—at best. As the GAO stated, "we believe the report's estimates of creditor losses and bankruptcy system costs should be interpreted with caution."

The most recent and unbiased study—completed by the Executive Office for the U.S. Trustees—concluded that "only a small percentage of current Chapter 7 debtors have the ability to pay any portion of their unsecured debts." That's consistent with the conclusion reached by others, including *Time* magazine, which reported that by the time individuals and families file for bankruptcy protection, more than 20 percent of their income before taxes is being used to pay interest and fees on their debts. The article goes on to say that "The notion that debtors in bankruptcy court are sitting on many billions of dollars that they could turn over to their creditors is a figment of the imagination of lenders and lawmakers."

We know the specific circumstances and market forces that so often push middle class Americans into bankruptcy.

We know that in recent years, the rising economic tide has not lifted all boats. Despite low unemployment, a soaring stock market, and large budget surpluses, Wall Street cheers when companies—eager to improve profits by down-sizing—lay off workers in large numbers. In 1998, layoffs were reported around the country in almost every in-

dustry—9,000 jobs were lost after the Exxon-Mobil merger—5,500 jobs were lost after Deutsche Bank acquired Bankers Trust—Boeing laid off 9,000 workers—Johnson & Johnson laid off 4,100. Kodak has cut 30,000 jobs since the 1980s and 6,300 just since 1997.

Often, when workers lose a good job, they are unable to recover. In a study of displaced workers in the early 1990s, the Bureau of Labor Statistics reported that only about one-quarter of these laid-off workers were working at full-time jobs paying as much as or more than they had earned at the job they lost. Too often, laid-off workers are forced to accept part-time jobs, temporary jobs, or jobs with fewer benefits or no benefits at all.

Divorce rates have soared over the past 40 years. For better or worse, more couples are separating, and the financial consequences are particularly devastating for women. Divorced women are four times more likely to file for bankruptcy than married women or single men. In 1999, 540,000 women who head their own households filed for bankruptcy to try to stabilize their economic lives. 200,000 of them were also creditors trying to collect child support or alimony. The rest were debtors struggling to make ends meet. This bankruptcy bill is anti-woman, and this Republican Congress should be ashamed of its attempt to enact it into law.

Another major factor in bankruptcy is the high cost of health care. 43 million Americans have no health insurance, and many millions more are under-insured. Each year, millions of families spend more than 20 percent of their income on medical care, and older Americans are hit particularly hard. A 1998 CRS Report states that even though Medicare provides near-universal health coverage for older Americans, half of this age group spend 14 percent or more of their after-tax income on health costs, including insurance premiums, co-payments and prescription drugs.

These are the individuals and families from whom the credit card industry believes it can squeeze another dime. The industry claims that these individuals and families are cheating and abusing the bankruptcy system, and that are irresponsibly using their charge cards to live in luxury they can't afford.

These working Americans are not cheats and frauds—but they do comprise the vast number of Americans in bankruptcy. Two out of every three bankruptcy filers have an employment problem. One out of every five bankruptcy filers has a health care problem. Divorced or separated people are three times more likely than married couples to file for bankruptcy. Working men and women in economic free fall often have no choice except bankruptcy. Yet this Republican Congress is bent on denying them that safety net.

This legislation unfairly targets middle class and poor families—and it