Mr. LOTT. That is correct. I hope that maybe it will not even be that late. It is possible we could get completed with our work a little earlier—6 or 6:30. That would be ideal. I believe, counting the votes and all of the time, it would not go beyond 7:30, so Senators should be aware of that. I might note, in terms of any other legislative action, certainly we wouldn't consider anything further without close consultation with the Democratic leader. We have the possibility of considering the SEC fees bill, but we want to do that in such a way it can be done either by voice vote or in wrap-up, or if there had to be votes, it would not occur until late on Monday afternoon. We will work through that. I put Senators on notice that we will at least consider how we will bring that bill up at some point.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

BANKRUPTCY REFORM ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 420, which the clerk will report.

The bill clerk read as follows:

A bill (S. 420) to amend title 11, United States Code, and for other purposes.

Pending:

Leahy amendment No. 20, to resolve an ambiguity relating to the definition of current monthly income.

Wellstone amendment No. 35, to clarify the duties of a debtor who is the plan administrator of an employee benefit plan.

Kennedy amendment No. 38, to allow for reasonable medical expenses.

Collins amendment No. 16, to provide family fishermen with the same kind of protections and terms as granted to family farmers under chapter 12 of the bankruptcy laws.

Leahy modified amendment No. 41, to protect the identity of minor children in bankruptcy proceedings.

Reid (for Breaux) amendment No. 94, to provide for the reissuance of a rule relating to ergonomics.

Reid (for Leahy) amendment No. 19, to correct the treatment of certain spousal income for purposes of means testing.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Minnesota, Mr. WELLSTONE, is recognized to offer any of his germane amendments.

Mr. WELLSTONE. Mr. President, am I correct that my time starts now at 20 minutes of?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. WELLSTONE. Mr. President, I will probably take about 40 minutes of my hour right now and probably later on speak again on the bill.

AMENDMENTS NOS. 70, 71, AND 73, EN BLOC

Mr. WELLSTONE. Let me start by calling up some amendments. I send to the desk amendments Nos. 70, 71, and 73.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes amendments Nos. 70, 71, and 73, en bloc.

Mr. WELLSTONE. I ask unanimous consent the reading of the amendments be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 70

(Purpose: To change the relevant time period in determining current monthly income)

On page 18, line 9, strike ''6'' and insert ''2''.

AMENDMENT NO. 71

(Purpose: To address the acceptable period of time between the filing of petitions for relief under chapter 13 of title 11, United States Code)

On page 151, strike line 18 and all that follows through page 152, line 3, and insert the following:

Section 727(a)(8) of title 11, United States Code, is amended by striking ''six'' and inserting ''8''.

AMENDMENT NO. 73

(Purpose: To create an exemption for certain debtors)

On page 441, after line 2, add the following:

(c) EXEMPTIONS.—

(1) CERTAIN UNEMPLOYED WORKERS.—This Act and the amendments made by this Act do not apply to any debtor that can demonstrate to the satisfaction of the court that the reason for filing is due to the debtor having become unemployed and the debtor is part of a group of workers certified by the Secretary of Labor as being eligible for trade adjustment assistance under title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), unless the debtor elects to make a provision of this Act or an amendment made by this Act applicable to that debtor.

(2) APPLICABILITY.—Title 11, United States Code, as in effect on the day before the effective date of this Act and the amendments made by this Act, shall apply to persons referred to in paragraph (1) on and after the date of enactment of this Act, unless the debtor elects otherwise in accordance with paragraph (1).

AMENDMENT NO. 70

Mr. WELLSTONE. Mr. President, amendment No. 70 would fix the means test so it only looks at present and future income, not an average of the past 6 months. This is a really important amendment and I am interested in a vote. The means test in the bill determines a debtor's ability to pay a certain threshold amount of debt by averaging the debtor's last 6 months of income. This may be a very poor snapshot of a debtor's circumstances, especially if the debtor's income has gone down shortly before the filing due to a job loss or disability. This will have the effect of inappropriately forcing some debtors into chapter 13 repayment plans which they will never be able to complete.

This means test is unfair. It does not really look at the debtor's current income in determining ability to repay debt. It is abusive to workers who file shortly after losing well-paying jobs, particularly given the current weakness in the manufacturing sector of our economy.

This amendment changes the means test so it looks at an average of the debtor's last 2 months of income instead of the last 6. This is a more accurate picture of the debtor's circumstances and will ensure that only individuals with actual ability to repay will be captured by the means test.

Think about this for a moment. You better be thinking about it if there is a downturn in this economy. I am saying if somebody loses his or her job, and you are looking at the average income over the past 6 months, that doesn't do that person or their family a whole lot of good in terms of making an accurate assessment. If you look at it just over the last 2 months before they file for bankruptcy, then you are providing some protection to the people who have lost their jobs.

I will give a perfect example from the Iron Range. We now have about 1,300 taconite workers who have lost their jobs just with the LTV mine that is shutting down. For Minnesota, these were well-paying jobs with wages and health care. These were $65,000 jobs. For people who lose those kinds of jobs because the manufacturing sector is struggling, it does not do them a whole lot of good to look at the average income over the prior months—not when you have just lost your job or not when you have been in an accident and all of a sudden find yourself disabled. So I say again, this amendment is an amendment that tries to address the harshness of this legislation.

I cannot understand why Senators would not vote for this amendment and therefore this is the first amendment that I bring before the Senate today.

AMENDMENT NO. 71

Amendment No. 71 strikes the 5-year waiting period for a new chapter 13 filing. When people file a chapter 13 case, by definition they are paying all they can afford. There is no disagreement about that on the floor. That is supposed to be the reason this bill puts more people into chapter 13. So why does this bill prevent debtors from filing another chapter 13 case for 5 years, even if those debtors have fulfilled all their obligations in bankruptcy? This change simply adds insult to injury. It is particularly harmful, I maintain, to elderly individuals who might file a chapter 13 case to save their homes. Under this bill, an elderly person might file a chapter 13 case because of medical bills or because a spouse dies, successfully complete chapter 13 and save the home.

But if they have another illness in the next 5 years or they become disabled or lose their income, they will not be able to file for chapter 13. That is ridiculous. That is ridiculous. Again, I point to the harshness of this legislation. Under this bill, chapter 13 filers are not supposed to be abusers. They are supposed to be the good guys.