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Senate

The Senate met at 1 p.m. and was called to order by the Honorable JON S. CORZINE, a Senator from the State of New Jersey.

PRAYER

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

Almighty God, today we claim the primary etymology of politics as the science of government. We praise You for the women and men of this Senate who have accepted politics as a high calling from You and use political process as a way to solve the perplexities of our time and ensure the full potential of Your plan for our beloved Nation. Help them to envision and enable Your very best for the spiritual and moral character of the United States. Help the Senators to confront the soul-sized issues that hold progress at bay. Grant them courage and power for the facing of this hour. May they lead a movement, rather than preserve a bureaucracy and turn to You for Your wisdom to tackle perplexities great and small. Help them to do that with a sense of mission and conviction that politics is a ministry ordained by You. In the Name of our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK DAYTON, a Senator from the State of Minnesota, 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 12, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON S. CORZINE, a Senator from the State of New Jersey, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. CORZINE thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Indiana is recognized.

SCHEDULE

Mr. LUGAR. Mr. President, today the Senate will be in a period of morning business until 2 p.m. Following morning business, the Senate will resume consideration of S. 420, the Bankruptcy Reform Act. There are several amendments pending. Others are expected to be offered during today's session. Any votes ordered during today's session will be scheduled to occur tomorrow morning at 11 a.m.

As a reminder, the Conrad and Sessions amendments are scheduled for votes at 2:45 p.m. tomorrow. Senators should be aware that it is the intention of the majority leader and the managers of the bill to complete action on this bill by midweek.

I thank my colleagues for their cooperation.

Mr. REID. Will the Senator yield?

Mr. LUGAR. I am happy to yield.

Mr. REID. I say to my friend, I heard on Friday and I heard today that the leader would like to complete this legislation by Wednesday, the day after tomorrow. Friday was a day we didn't accomplish much. We should have. Amendments could have been offered. Today I hope people will take advantage of this afternoon to offer amendments. I do say, however, it will be extremely difficult to finish by midweek, which is Wednesday. I hope we can finish this week.

I was part of the conversation between the two leaders and they indicated they wanted to finish this bill by the end of this week. I think we can do it. We have pending over 100 amendments now. But some of those can be accepted. I understand, talking to some of the staff on Friday, they believe 15 or 20 can be accepted by the two managers, and some amendments, of course, won't be offered.

I do hope, though, people take advantage of this afternoon and this evening to offer amendments. Otherwise we simply will not be able to do that, and the leader has indicated he will file cloture. That would be too bad because I think we can work our way through this bill.

I appreciate the Senator from Indiana yielding.

Mr. LUGAR. I endorse strongly the sentiments of the distinguished Senator from Nevada. I am certain the majority leader would concur with enthusiasm regarding working through the amendments quickly. The Senator from Nevada has always done so.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 2 p.m. with Senators permitted to speak therein for up to 10 minutes each, with the following exceptions: Senator THOMAS or his designee for 30 minutes; Senator DURBIN or his designee for 30 minutes.

THE STOCKPILE STEWARDSHIP PROGRAM AND THE COMPREHENSIVE TEST BAN TREATY REVISITED

Mr. LUGAR. Mr. President, I rise today to discuss a subject of major importance to the national security of the United States—the maintenance of our nuclear weapons stockpile.

For most of the nuclear age, the United States has relied on nuclear testing to ensure that our nuclear weapons remained safe, secure, and reliable. Our country conducted more than one thousand nuclear tests in furtherance of these goals. In July 1992, President George Bush announced that the United States would suspend underground testing. We initiated the Stockpile Stewardship Program, which was designed to replace detonations at the Nevada Test Site with computer simulations.

In 1999, concerns about the Stockpile Stewardship Program were a critical element of the Senate debate over ratification of the Comprehensive Test Ban Treaty. It was unfortunate that the Senate was forced to take up the treaty in a highly politicized atmosphere. The CTBT was not a new subject, but in 1999, the Senate was not prepared to develop the consensus necessary to ratify a major treaty with far-reaching consequences for U.S. security.

I opposed ratification of the CTBT, because I did not believe that the treaty's verification and enforcement provisions would be successful. Equally important, I was concerned about our ability to maintain the integrity and safety of our nuclear arsenal under the conditions imposed by the treaty.

The United States must maintain a reliable nuclear deterrent for the foreseeable future. The end of the cold war provided tremendous national security benefits, but the necessity of our nuclear deterrent did not disappear. The transformation of the former Soviet Union has permitted the United States to consider lower numbers of nuclear weapons, but the current security atmosphere does not permit us to consider their elimination.

Our nuclear arsenal continues to play a critical role in ensuring the security of the American people. It also plays a role in the security calculations of friends and allies around the world. Many of them have foregone potentially destabilizing arms build-ups and weapons procurement programs because of the nuclear umbrella provided by the United States.

During the CTBT debate, I expressed my concern that the Senate was being asked to trust the reliability of our nuclear stockpile to a Stockpile Stewardship Program that was both unproven and unlikely to be fully operational for a decade or more.

There remains strong disagreement among many nuclear experts and national security leaders about the efficacy of maintaining a nuclear stockpile without testing. As Senators, we do not have the luxury of taking a chance on the Stockpile Stewardship Program. The restrictions imposed by the CTBT could have harmed the national security of the United States if we could not ensure the safety and reliability of our nuclear weapons stockpile without testing. We cannot allow our nuclear weapons to fall into disrepair or permit their safety to be jeopardized.

Now unfortunately, little progress in advancing the Stockpile Stewardship Program appears to have occurred since the 1999 Senate debate. Our new Secretary of Energy, Spencer Abraham, recently testified before the Armed Services Committee that:

> The Department of Energy has allowed its nuclear-weapons production plants to degrade over time, leaving a tremendous backlog of deferred maintenance and modernizations. The deterioration of existing facilities is a very serious threat.

Under the Stockpile Stewardship Program, the United States will depend on these facilities to inspect our nuclear arsenal and to replace degraded weapons.

I am particularly concerned by the uncertainty surrounding the construction of the National Ignition Facility, the NIF, which was profiled in a recent episode of the ''Jim Lehrer Newshour.'' The NIF is intended to play a key role in the Stockpile Stewardship Program and the annual certification of the U.S. nuclear stockpile. The National Academy of Sciences and others recommended the construction of the NIF, which will simulate thermonuclear conditions. This facility would be critical to evaluating our nuclear weapons arsenal in the absence of testing. The Academy stated that such a facility was necessary because nearly all of the 6,000 parts of a nuclear weapon change with age.

Yet at present, the NIF is 4 years behind schedule and approximately $1 billion over budget. These are dismal omens. Even more disconcerting is that the National Science Foundation and others have estimated the NIF's chances of success at only about 50 percent. It is alarming to learn that the possibility of success for a critical component of our Stockpile Stewardship Program can only be characterized as 50/50.

Some supporters of the CTBT, the Comprehensive Test Ban Treaty, have suggested that the stockpile could be maintained without the NIF by replacing old warheads with new warheads manufactured to the same specifications as the originals. They also have posited that current warheads could be rebuilt with fresh nuclear material.

Yet many nuclear experts regard these strategies as unreliable. This is why both the former Bush and Clinton administrations moved forward on the Stockpile Stewardship Program. According to the Lawrence Livermore National Laboratory, it is impossible to guarantee that new warheads manufactured to old specifications will work reliably. Neither is replacing the nuclear core of existing weapons a viable option. Nuclear material contained within weapons changes with age. As the nuclear material changes, so does its effects on the other components of the warhead. If one attempted to maintain weapons by periodically replacing their nuclear cores, the older warhead components around the pits would not be matched to the new nuclear material. Under these conditions, the warheads would not necessarily function as originally designed.

Even many proponents of the CTBT do not believe that U.S. nuclear weapons can be maintained in the absence of an effective Stockpile Stewardship Program. Most notably, former Chairman of the Joint Chiefs of Staff, General John Shalikashvili, who conducted extensive review of the CTBT following the Senate's rejection of the treaty, outlined the need for an effective Stockpile Stewardship Program. His review emphasized that the program was needed to provide the people, knowledge, equipment, and facilities necessary to accomplish three tasks: First of all, to enhance surveillance of weapons in the stockpile to monitor for age-related changes and to identify other defects; second, to deepen the scientific understanding of how nuclear weapons work and how they age so that we are better able to spot potential defects; and, third, to remanufacture components and refurbish warheads using an updated nuclear weapons complex. General Shalikashvili offered his strong support for the Stockpile Stewardship Program and reiterated its necessity in the absence of testing.

But if we are going to depend on the Stockpile Stewardship Program, it must be reliable and accurate, Recently, the Panel to Assess the Reliability, Safety and Security of the U.S. Nuclear Stockpile found:

> . . . growing deficiencies in the nuclear weapons production complex, deep morale and personnel problems, continued slippage of program milestones, and unacceptably high risks to the completion of needed weapons refurbishments.

The panel, established by Congress in the 1999 Defense authorization bill, was tasked with providing an assessment of the Stockpile Stewardship Program. The panel's concerns led to numerous recommendations, including: one, stopping the slippage in stockpile life-extension programs; two, restoring missing production capabilities and refurbishing the production complex; three, stopping the slippage in development of tools needed to make future assessment of the stockpile's safety and reliability; and four, responding to the low morale at the weapons laboratories. The panel concluded that the problems within our nuclear weapons complex are ''unacceptable,'' and they warned that the situation could decline further. The report states that:

> Worrisome deterioration of nuclear components has already been found. Moreover, the history of the stockpile has demonstrated many surprises, and weapons are entering an

age regime for which we have no prior experience.

Furthermore, the Stockpile Stewardship Program simply will not be ready in the near term, even if its deficiencies can be fixed. Dr. Michael Anastasio, the associate director of defense and nuclear technologies at the Livermore Lab, has stated that we will not know for ''at least ten years'' whether the Stockpile Stewardship Program can be a viable replacement for testing.

I am concerned that while our country's nuclear experts are still debating the composition and efficacy of the Stockpile Stewardship Program, we not rush into another ill-prepared attempt to ratify the CTBT. It is difficult to envision how the Senate could be asked to reverse its position of 2 years ago by placing its faith in a program that not only is incomplete, but whose exact components are still a source of debate.

Some proponents of the treaty have argued that the United States can ratify the CTBT regardless of potential stockpile problems, because the United States has the ability to withdraw from the treaty should we lose confidence in our stockpile. I disagree. First, the Clinton administration originally cited withdrawal as an emergency escape hatch, not an option on which to base nuclear policy. And second, withdrawing from the treaty would send a damaging signal to our allies and foes around the world on the status of our nuclear stockpile.

If the U.S. were to abrogate the CTBT, citing the safety and reliability of the stockpile, our friends and allies would question the credibility of the nuclear umbrella itself that plays a vital role in their security. Enemies and foes would question America's strength and confidence in the status of our nuclear arsenal.

Secretary of State Colin Powell stated during his confirmation hearing that the administration ''will not be asking for the Congress to ratify the Comprehensive Test Ban Treaty in this next session.'' I believe this is a wise course of action. The United States may be in a position to ratify the CTBT at some point in the future, but not today.

I understand the impulse of proponents of the CTBT to express United States leadership in another area of arms control. Inevitably, arms control treaties are accompanied by principles that envision a future in which international norms prevail over the threat of conflict between nations. However, while affirming our desire for international peace and stability, the U.S. Senate is charged with the constitutional responsibility of making hard judgments about the likely outcomes of treaties. This requires that we examine the treaties in close detail and calculate the consequences of ratification for the present and the future. Viewed in this context, I could not support the treaty's ratification in 1999, nor for the reasons I have just expressed could I support ratification now.

The Bush administration's position not to request immediate Senate consideration of this treaty is prudent. I am hopeful that proponents and opponents alike will not force the Senate into another counterproductive debate, particularly when prospects for a different outcome in the Senate have not improved since 1999.

Instead, we should reinvigorate bipartisan efforts on the broader question of arms control and non-proliferation, as well as explore improvements in technology. Even during the fractious CTBT debate in the Senate, many of us on both sides of the issue, including Senators WARNER, LEVIN, and Moynihan, were working together to delay treaty consideration and build a consensus on arms policy for the short term.

Our goal now should be to achieve sufficient technological progress to permit confidence in the Stockpile Stewardship Program. Both proponents and opponents of the CTBT have a mutual interest in this goal, because the safety and reliability of our weapons depend on it. I have urged the Bush administration to maintain a strong commitment to the program and support the funding necessary to correct problems.

In addition, the United States should work with allies to develop technological means through which we might improve verification techniques and capabilities. The current shortcomings of the CTBT's verification regime are very serious, but we should remain open to diplomatic or technological developments in the long run.

I am confident that there does exist within the Senate a strong desire to work toward a consensus on arms policies. I urge my colleagues to join in this effort.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. WELLSTONE. Mr. President, the managers are not on the floor. I will wait to offer my amendment until there is a manager on the other side. I want to speak for 10 minutes as in morning business. I ask unanimous consent that I be allowed to speak for 10 minutes as in morning business and then be allowed to lay down my amendments.

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

Mr. WELLSTONE. I thank the Chair.

TAX CUTS

Mr. WELLSTONE. Mr. President, I will return to the bankruptcy bill. We marked up an education bill in the HELP Committee. There were a number of us who said we will vote for the bill out of committee in part because I do think Senator JEFFORDS, Senator KENNEDY, and others did yeoman work in trying to work together, and in part because there are some parts of this bill that are very important.

For my own part, for several years now, I have been trying to get us to adopt legislation which deals with children who witness violence in their homes. There has been, thank God, more of a focus on the violence against women—sometimes men, almost always women. Every 13 seconds during the day, a woman is battered. Home should be a safe place.

There has not been a whole lot of focus on children who witness this violence and the ways in which it affects their work in schools. All too often, these children fall between the cracks.

An amendment was adopted to bring together out of the schools some critical support services for these children.

I want to repeat what I said during the committee markup, which is, if this bill, the reauthorization of the Elementary and Secondary Education Act, comes to the floor before we have had an honest and thorough discussion of the budget and before we have some idea of the context of the tax cuts to the budget, then I will be in strong opposition. I hope Senators on our side and on the other side will be as well. Let me explain.

First, I find the President's tax cut proposal to be Robin Hood in reverse. Anytime over 40 percent of the benefits go to the top 1 percent and anytime one-third of the children in our country are living in homes that do not get a dime from this, and over 50 percent of African American children live in families that do not get a dime, and 56 percent of Hispanic children live in homes that do not receive one dime from this ''tax relief'' because it is not refundable, then something is terribly wrong with such a piece of legislation. I do not think it meets any standard of fairness. That is part of the problem.

But there is another part of the problem. I hope Democrats will be strong on this because the fact of the matter is, here is where you draw the line: If you are saying that we are going to have Robin-Hood-in-reverse tax cuts with over 40 percent of the benefits going to the top 1 percent, but we are not going to be able to afford prescription drug costs for elderly and other families, then I think Democrats draw a line there.

If we are going to have Robin Hood in reverse, with over 40 percent of the benefits going to the top 1 percent, but, as a matter of fact, we are not going to realize the goal of leaving no child behind, and, as a matter of fact, we are going to have a tin-cup budget for education, and, as a matter of fact, we are not going to expand the title I program where only 30 percent of low-income children are able to get any help right

now, and we are not going to make the kind of commitment to the IDEA program, children with special needs, funded at only 14 percent when it should be funded at the 40-percent level, or we are not going to make the commitment to decent, affordable child care so children can come to school, kindergarten ready, or we are not going to make a commitment to expanding health care coverage for citizens in our country when so many people go without health security, either because they have no coverage or they can't afford their coverage—it seems to me this is the place where Democrats can draw the line. We don't need to have acrimonious debate, but we do need to have substantive debate, I argue passionate debate.

Frankly, I put all of my faith in people in Minnesota and around the country, when it comes to the question of priorities. To me, what we have is distorted priorities. We have a tax cut program, Robin Hood in reverse. Over 40 percent of the benefits are going to the top 1 percent. There is no standard of fairness when it comes to tax relief for people, tax relief for families. Moreover, nobody should kid anybody; this will erode the revenue base and make it practically impossible to make any of the investments that we say we are going to make when it comes to children, when it comes to education, when it comes to health care, when it comes to affordable prescription drug costs.

The vast majority of the people in the country, if they understand this is the choice, want to see us do more by way of investing in education, investing in children, investing in health care, investing in their families, investing in our communities.

This will become the axis of the debate of the Senate and I think American politics. I believe it is very important the Democrats draw the line in a very firm way.

I say to my colleague, Senator GRASSLEY, I have some amendments I am ready to introduce to the bankruptcy bill. I asked unanimous consent I be able to proceed. I assume that is all right with the manager.

Mr. GRASSLEY. I wonder if the Senator will provide copies of the amendments. We want to know with what we are working.

Mr. WELLSTONE. I am more than pleased to provide copies. Many requests are unreasonable, but this is not.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mrs. CLINTON). Morning business is closed.

BANKRUPTCY REFORM ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 420, which the clerk will report.

The assistant legislative clerk read as follows:

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

Pending:

Schumer amendment No. 25, to ensure that the bankruptcy code is not used to exacerbate the effects of certain illegal predatory lending practices.

Feinstein amendment No. 27, to place a $2,500 cap on any credit card issued to a minor, unless the minor submits an application with the signature of his parents or guardian indicating joint liability for debt or the minor submits financial information indicating an independent means or an ability to repay the debt that the card accrues.

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

Conrad modified amendment No. 29, to establish an off-budget lockbox to strengthen Social Security and Medicare.

Sessions amendment No. 32, to establish a procedure to safeguard the surpluses of the Social Security and Medicare hospital insurance trust funds.

Mr. WELLSTONE. Madam President, I will summarize these amendments before we get into whatever debate might take place. I say to the Senator from Iowa, as he looks over the amendments, one of the amendments I am hoping will meet with his approval. Let me explain them very quickly and then go into the payday loan amendment.

The first amendment is protecting the legal rights of retirees of bankrupt companies. This amendment simply clarifies companies in bankruptcy must fulfill their legal obligations as plan administrators and plan sponsors of employee and retirement benefit plans. I think Senator SESSIONS has some interest in this amendment, as well.

Companies occasionally stop administering benefit programs during bankruptcy. This means retiree benefit plans are left without anybody in charge, which results in the failure to pay out benefits to workers such as reimbursements for covered health care costs. This often occurs toward the end of bankruptcy, either a 7 or 11, when there is not much left of the business. The company's management and bankruptcy trustees are trying to wind up the business, and the benefit programs quite often end up falling between the cracks.

I have a specific situation in Minnesota but I know Senator SESSIONS and others can talk about this in their own States. In Minnesota, LTV Corporation shut down and 1,300 people are out of work. People have no jobs. They are out of work. Those out of work, the younger workers, are terrified they will lose their health care coverage in 6 months. Those who worked longer will lose coverage within a year. But the retirees are terrified they will not have their health care benefits any longer after the bankruptcy proceeding. The persons ordinarily responsible for the management of the benefits programs may have been laid off and those who remained refuse to administer the plan. This can happen.

Or it may be a ''lights out bankruptcy'' where the power is shut off, the doors are locked, and all functions of the company cease. However, even in these cases, the firm is required to either terminate any benefit plans or to continue to administer them.

This is what our amendment does. We don't impose any new burdens on the companies. The companies are already required by law to continue to administer the plans that have not been terminated or to administer plans that are part of the trust. This amendment simply results in companies fulfilling their current legal obligations without any expensive litigation on the part of the workers. We are just trying to codify this into law.

Let me talk about how this helps LTV workers and retirees. Health care and other benefits for retirees at LTV are guaranteed by a trust fund known as the Voluntary Employee Benefit Association Trust Fund, also referred to as the VEBA trust funds. The trust cannot be wiped out even if LTV is liquidated in bankruptcy, but LTV must administer the VEBA for workers to get any of the benefits and guarantees. We have no reason to believe as of now that LTV will not fulfill its obligation to administer the VEBA. This amendment simply provides added assurance in case the worst happens. So it is an important amendment for a lot of retirees who are worried that somehow through the bankruptcy processes companies are not going to provide them with their retiree benefits.

I will give a real-world example of the worst case scenario. In August of 2000, Gulf States Steel in Alabama locked its doors after failing to conclude a chapter 11 reorganization. Over 1,000 steelworkers immediately, and with little warning, lost their jobs. The union had ordered a VEBA trust as part of the workers' contract. That trust, made up of employee contributions, is intended to cover the costs of retiree health plans under just this scenario.

Gulf States still refuse to administer the trust so the assets and income are not being used to cover the workers' health care costs.

Since September of last year, Gulf States retirees have effectively had no health care coverage because they cannot access the resources of their own VEBA.

Absent the changes made in the bankruptcy law by this amendment, the union will be forced to file an expensive and lengthy lawsuit to force the company to comply with the law. The lawsuit could take months—for all I know, it could take years —to resolve and will do little to address the immediate needs of the retirees. Again, as the several examples I have given indicate, I think this is almost a fix.

I am hopeful there will be support for this amendment. It is certainly the right thing to do. It is one of several amendments I want to lay down.

The second amendment is the payday loan amendment. I assume since we are talking about this today that there

may be some time to talk about it. This is an amendment to protect the legal rights of retirees of bankrupt companies which I hope fits in with my colleague's definition of reform.

The second amendment I propose is an amendment that almost passed last Congress. I hope it will pass this time. It will curb a form of predatory lending which targets low- and moderate-income families.

I apologize for having to read. Usually I don't do that. But I am not a lawyer. I find some of these proposals and some of the language of bankruptcy to be technical and not all that easy.

This amendment would prevent claims in bankruptcy on high-cost credit transactions in which the annual interest rate exceeds 100 percent.

I know my colleague from Iowa doesn't much like the payday loan amendment. I know that. I have heard him speak about it. That is what I am talking about, these payday loans and car title pawns.

Payday loans are intended to extend small amounts of credit—typically $100–500—for an extremely short period of time—usually a week to two weeks. The loans are marketed as giving the borrower ''a little extra till payday,'' hence the term payday loan. The loans work like this: the borrower writes a check for the loan amount plus a fee. The lender agrees to hold the check until an agreed upon date and give the borrower the cash. On the due date, the lender either cashes the check or allows the borrower to extend the loan by writing a new check for the loan amount plus an additional fee. But calculated on an annual basis, these fees are exorbitant. For example, a $15 fee on a two week loan of $100 is an annual interest rate of $391 percent. Rates as high as 2000 percent per year have been reported on these loans.

I am just saying I don't think that crowd ought to have claims under bankruptcy that are resolved for these high-cost transactions with the kind of exorbitant and outrageous interest they can charge.

Car title pawns are one month loans secured by the title to vehicles owned by the borrower. Typical title pawns cost 300 percent interest. Consumers who miss payments have their cars repossessed. In some States, consumers do not receive the proceeds from the sale of repossessed vehicles—even if the value of the car far exceeds the amount of the loan! For example, a borrower might put up their $2000 car as collateral for a $100 car title loan—at an outrageous interest rate—and if the borrower defaults, the lender can take the car, sell it, and keep the full $2,000 without returning the excess value back to the borrower. Such schemes are almost more lucrative if the borrower does default! Often, the borrower is required to leave a set of keys to the car with the lender, and if the borrower is even one day late with a payment he might look out the window and find the car gone.

I don't think these kind of lenders ought to be given special treatment. Nobody needs to charge this type of interest rate for a loan. Indeed, this industry is grossly profitable as a result. An investors report by Stephens Incorporated on the industry stated that an operator of a payday lending establishment could expect a return on investment of 48 percent in nine months to a year and could expect profit margins to be in excess of 30 percent! As a result, the payday loan industry has exploded in growth in states with favorable regulatory systems and many more states have changed their laws to allow this type of lending. California has seen 1,600 payday loan store fronts spring up since the legislature made the business legal in 1997. Wisconsin went from 17 store fronts in 1995 to 183 in early 1999. Stephens Inc. reported that there were 6,000 storefronts making payday loans in 1999 across the country, but estimates the potential ''mature'' market as being 24,000 stores nationwide generating $6 billion in fees. With these kinds of profits, only your conscience will keep you out of this business.

I say to my colleague, these sleazy debt merchants expanding their tentacles into our cities and towns is the mirror image of the retreat of mainstream financial institutions from these same communities.

Poor people are forced to get their loans from these loan sharks. As banks merge and close branches, their former customers—often unable to access the new, consolidated locations—have little choice but to deal with the seamy underbelly of the financial services industry.

That is what I am talking about. And the Stephens report notes, that even with the market saturated, lenders need not expect losses in profits which is further evidence that the payday lender truly has a captive customer base who has little market power to drive prices down.

We are talking about the exploitation of vulnerable citizens and poor people who are charged outrageous interest rates, and we should do something about it.

This was a close vote last time. I expect to win the vote on this amendment this time.

The worst part is that many borrowers are unable to pay the loan when it comes due. They then extend the loan, for another fee and then extend it again. Often such borrowers may end up carrying several payday loans and rolling them over from week to week as the fees skyrocket. Additionally, there is a perverse incentive for the lender to encourage the borrower to defer payment on the loan, because of the additional fee that the lender can charge for deferring the loan for another week or two weeks. It is fine for these unscrupulous loan sharks to extend the loan. According to an analysis by brokerage firm Piper Jaffrey as reported in the Washington Post, ''established customers'' of one payday lender engage in 11 transactions per year and could end up paying $165 to $330 for a $100 loan.

The following from the June 18, 1999 New York Times is typical of the horror stories associated with payday lending, quote:

> Shari Harris who earns around $25,000 a year as an information security analyst, was managing money well enough until the father of her two children, 10 and 4, stopped paying $1,200 in child support. ''And then,'' Ms. Harris said, ''I learned about the payday loan places.'' She qualified immediately for a two-week $150 loan at Check Into Cash, handing it a check for $183 to include the $33 fee. ''I started maneuvering my way around until I was with seven of them,'' she said. In six months, she owed $1,900 and was paying fees at a rate of $6,000 a year. ''That's the sickness of it,'' Ms. Harris said. ''I was in a hole worse than when I started. I had to figure a way to get out of it.''

Madam President, I could go on and on. I think my colleagues know what this is about. Let me just simply say, there is no question that these high-interest-rate loans take advantage of low- and moderate-income working people. On the face of it, paying 300 percent or 500 percent or 800 percent for a $100 loan or $200 loan is unconscionable, but that is exactly the issue. These folks may not always have a choice.

Often borrowers turn to payday lenders and car title pawns because they cannot get credit any other place. So these borrowers are a captive audience, unable to shop around to seek the best rates, are uninformed about their choices, and unprotected from coercive collection practices. There is no way the borrower can win. At best they are robbed by high interest rates, and at worst their lives are ruined by a $100 loan which spirals out of control.

These loans, I say to my colleague from Iowa, and others, are patently abusive. They should not be protected by the bankruptcy system. And because they are so expensive, they should be completely dischargeable in bankruptcy so debtors can get a true fresh start and so more responsible lenders' claims are not ''crowded out'' by these shifty operators.

Why should unscrupulous lenders have equal standing in bankruptcy court with a community banker or a credit union that tries to do right by their customers? Lenders should not be able to take advantage of their customers' vulnerability through harassment and coercion.

My amendment simply says, if you charge over 100 percent annual interest on a loan, and the borrower goes bankrupt, you cannot make a claim on that loan or the fees from that loan. In other words, the borrower's slate is wiped clean of your usurious loan, and he or she gets a fresh start. Additionally, such lenders will be penalized if they try to collect on their loan using coercive tactics.

I say to Senators, I am going to repeat this one more time today. And I assume tomorrow, before the vote, I will have a chance to summarize.

The amendment says, if you charge over 100 percent annual interest on a loan, and the borrower goes bankrupt, you cannot make a claim on that loan or the fees from that loan. These borrowers are going to be wiped clean of the lender's usurious loan, and they get a fresh start. Additionally, what this amendment says is that these lenders are going to be penalized if they try to collect by using coercive practices.

I do not know how anybody can vote against this amendment. But that has happened to me before on the floor of the Senate. I have said that. Amendments do not always get adopted. This amendment should be adopted.

This amendment is a commonsense solution to the problem I have described. It allows the Senate to send a message to loan sharks. We say this to these loan sharks: If you charge an outrageous interest rate, if you profit from the misery and misfortune of others, if you stack the deck against the customers so they become virtual slaves to their indebtedness, you can get no protection in bankruptcy court for your claims.

I say to my colleagues on the other side of the aisle, and, as I have found out, Democrats, you should support this amendment. If a lender wants to make these kinds of loans, under my amendment, the lender can do it. But if he wants to be able to file claims in bankruptcy, he or she could charge no more than 100 percent interest. I do not believe any of my colleagues would come to the floor to claim that 100 percent interest is an unreasonable ceiling. This amendment is in the spirit of reducing bankruptcies. I believe it will significantly improve the bill, and I urge its adoption.

I have just one other amendment to discuss.

AMENDMENT NO. 35

Mr. WELLSTONE. Madam President, I have three amendments at the desk. I ask unanimous consent, they be reported separately.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendment is set aside, and the clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 35.

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

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

The amendment is as follows:

(Purpose: To clarify the duties of a debtor who is the plan administrator of an employee benefit plan)

At the appropriate place, insert the following:

SEC. ___. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) IN GENERAL.—Section 521(a) of title 11, United States Code, as so designated by section 106(d) of this Act, is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) unless a trustee is serving in the case, if at the time of filing, the debtor, served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) of an employee benefit plan, continue to perform the obligations required of the administrator.''.

(b) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as so designated and otherwise amended by this Act, is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) in paragraph (11), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(12) where, at the time of the time of the commencement of the case, the debtor served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) of an employee benefit plan, continue to perform the obligations required of the administrator;''.

(c) CONFORMING AMENDMENT.—Section 1106(a) of title 11, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), (11), and (12) of section 704;''.

Amend the table of contents accordingly.

AMENDMENT NO. 36

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 36.

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

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

The amendment is as follows:

(Purpose: To disallow certain claims and prohibit coercive debt collection practices)

At the end of subtitle A of title II, add the following:

SEC. 204. DISALLOWANCE OF CERTAIN CLAIMS; PROHIBITION OF COERCIVE DEBT COLLECTION PRACTICES.

(a) IN GENERAL.—Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking ''or'' at the end;

(2) in paragraph (9), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end of the following:

''(10) such claim arises from a transaction—

''(A) that is—

''(i) a consumer credit transaction;

''(ii) a transaction, for a fee—

''(I) in which the deposit of a personal check is deferred; or

''(II) that consists of a credit and a right to a future debit to a personal deposit account; or

''(iii) a transaction secured by a motor vehicle or the title to a motor vehicle; and

''(B) in which the annual percentage rate (as determined in accordance with section 107 of the Truth in Lending Act) exceeds 100 percent.''.

(b) UNFAIR DEBT COLLECTION PRACTICES.—

(1) IN GENERAL.—Section 808 of the Fair Debt Collection Practices Act (15 U.S.C. 1692f) is amended—

(A) in the first sentence, by striking ''A debt collector'' and inserting the following:

''(a) IN GENERAL.—A debt collector''; and

(B) by adding at the end the following:

''(b) COERCIVE DEBT COLLECTION PRACTICES.—

''(1) IN GENERAL.—It shall be unlawful for any person (including a debt collector or a creditor) who, for a fee, defers deposit of a personal check or who makes a loan in exchange for a personal check or electronic access to a personal deposit account—

''(A) to threaten to use or use the criminal justice process to collect on the personal check or on the loan;

''(B) to threaten to use or use any process to seek a civil penalty if the personal check is returned for insufficient funds; or

''(C) to threaten to use or use any civil process to collect on the personal check or the loan that is not generally available to creditors to collect on loans in default.

''(2) CIVIL LIABILITY.—Any person who violates this section shall be liable to the same extent and in the same manner as a debt collector is liable under section 813 for failure to comply with a provision of this title.''.

(2) CONFORMING AMENDMENT.—Section 803(6) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(6)) is amended by striking ''808(6)'' and inserting ''808(a)(6)''.

On page 253, line 15, insert ''as amended by this Act,'' after ''Code,''.

On page 253, line 16, strike ''period'' and insert ''semicolon''.

Amend the table of contents accordingly.

AMENDMENT NO. 37

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 37.

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

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

The amendment is as follows:

(Purpose: To provide that imports of semifinished steel slabs shall be considered to be articles like or directly competitive with taconite pellets for purposes of determining the eligibility of certain workers for trade adjustment assistance under the Trade Act of 1974)

At the appropriate place, insert the following:

SEC. ___. DETERMINATION OF ELIGIBILITY FOR TRADE ADJUSTMENT ASSISTANCE IN CASES INVOLVING TACONITE PELLETS.

For purposes of determining, under section 222 or 250 of the Trade Act of 1974 (19 U.S.C. 2272 and 2331), the eligibility of a group of workers for adjustment assistance under chapter 2 of title II of the Trade Act of 1974, increased imports of semifinished steel slabs shall be considered to be articles like or directly competitive with taconite pellets.

Mr. WELLSTONE. Madam President, again, I say to my friend from Iowa, there are three amendments I have on the floor. I assume we will have debate about payday loans. I say to my colleague from Iowa—I know what he believes—I do not believe these loan sharks should get the same protection under this bankruptcy bill, and I am hoping to get his support.

The first amendment that I talked about earlier, which clarifies that the companies in bankruptcy must fulfill their legal obligations as plan administrators and plan sponsors, is an amendment that we may or may not have to

debate. I am hoping to get full support for it.

The third amendment I have offered is an amendment—and I say to my colleagues, I think Senator DAYTON will either be down here later today or tomorrow to speak about these amendments, both on the protection of retirees and also this trade adjustment assistance amendment to the bankruptcy bill.

Madam President, this is a hugely important amendment. Both Senators from Michigan are cosponsors of the bill, and they may want to speak on this amendment. Again, I say to my colleague from Iowa, it may very well be that Senator BAUCUS may come down, and we may have a colloquy on this and talk about other ways of trying to accomplish the same goal, but I offer the amendment today as a basis for the discussion that we are going to have.

This amendment goes to why all too many people find themselves in bankruptcy. We have a situation where many taconite workers in Michigan, and certainly in northeast Minnesota, have now lost their jobs, and some are losing their jobs. The problem is, when it comes to trade adjustment assistance, which is a lifeline program, where these workers, whether they are in their 30s or 40s or 50s, are provided with some financial help, be it income, be it being able to go back to school, be it money for relocation—we do not know yet, we are going to be talking to the Secretary of Labor on Wednesday about this—but we are very concerned that the taconite workers are not included.

In other words, the flaw to trade policy right now, which affects trade adjustment assistance, is that these taconite workers are not viewed as being in competition with slab steel or semifinished steel that comes to the market. We have had an import surge of slab steel and semifinished steel. And when it comes into this country, with this import surge, all of the trade legislation will say to steel workers: You will be eligible for trade adjustment assistance when you are competing with foreign steel and, for whatever reason, there is an import surge. But in this highly integrated industry, the shame of it and the flaw to this is that taconite workers are not covered.

The reason I talk about this as an amendment to the bankruptcy bill is, look, if you lose your job—next to medical bills, the other two reasons most people file for bankruptcy is loss of job or divorce. In the iron range in Minnesota there is a tremendous amount of economic pain. Senator DAYTON and I are in a rush to try to get as much help to these workers as possible, just as any Senator, Democrat or Republican, would be doing the same for people in their State.

I have introduced this amendment. There may come a time when I will have a discussion with Senator BAUCUS as to other ways we can approach this. There is a meeting with Secretary Chao on Wednesday. Senator DAYTON is very engaged in this as well. We are doing it together. This may be an amendment on which we may not have an up-or-down vote because we might be able to move it forward with some other way of getting at it.

It is a huge problem. These workers are out of work, and they are not eligible for the trade adjustment assistance. The same import surge that is affecting them affects other workers. We are just desperately trying to work out a fix to get them some help. It may be that I could do that with Senator BAUCUS and Senator GRASSLEY and others in another way.

This is not some trump political thing I am doing. It is very painful to see people who are so desperate and who fall between the cracks and are not getting the help they need.

Those are the three amendments I have. I know there are other colleagues who are coming to the floor. I will wait to see what kind of response there is from the other side. I am hopeful we can at least have this one amendment incorporated into this bill that will provide retirees with some protection. I am hoping the amendment will be accepted. I believe Senator SESSIONS may also be engaged on this question. I am hopeful.

On the payday loan, I wait to hear from my colleagues from the other side.

I yield the floor.

Mr. GRASSLEY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LOTT. Madam President, it is my understanding that three amendments have been offered today by Senator WELLSTONE. Would the Senator clarify? Has he offered three amendments that are now pending for discussion, or does he intend to do so? What is the status on his amendments?

Mr. WELLSTONE. The majority leader is correct. I was here in the beginning of the debate last week and I offered one. I have offered three now. I have a number of other amendments to offer, but I have offered three; correct.

Mr. LOTT. I understand there are still some 80-plus amendments to be disposed of just from the other side of the aisle. I guess there are probably a dozen or more on this side of the aisle, not counting the relevant amendments that were identified from the list that might be offered. So we still have a lot of work to do.

I do know that on Friday, and today, some work was accomplished. Senator WELLSTONE is certainly carrying through with his commitment to offer amendments dealing with bankruptcy. I know the staffs have been working on both sides to see if we can find a way to complete this without the necessity of a cloture vote this week. However, we have to dispose of this bill this week.

As Senator DASCHLE and I discussed on the floor last Thursday, it is our intent to offer a cloture today or tomorrow, to make sure we have enough time to complete this very important legislation. It is my intent—and I see Senator DASCHLE here now—to file cloture in order to assure passage of the bill this week. If we can make substantial progress by Wednesday, or if some agreement can be reached that would limit the number of amendments, certainly I would be open to that.

I think the record is clear. I have repeatedly tried to move this legislation and I have tried to be respectful of the committee process, which we have followed, and also to be respectful of the Senator from Minnesota, who feels strongly about this legislation, as others do. It is time that we make sure we get it completed this week.

I am prepared to send a cloture motion to the desk to the pending legislation. Before I do that, I say to Senator DASCHLE I will be glad to yield for any comment he might have.

Mr. DASCHLE. Madam President, I appreciate Senator LOTT's expression of intent here. As we said last week, there is a real hope that we can resolve whatever procedural difficulties we face in accommodating the desire the majority leader has noted: that we schedule a vote for final passage sometime before the end of this week.

It is clear now we really do have a number of pieces of legislation that have to be addressed, including campaign finance reform as early as next Monday or Tuesday. In order to accommodate that schedule, it would be best if we could complete our work on this bill before Friday.

I will be supportive of whatever procedural arrangements we can make that respect the rights of Senators on both sides to be heard. I want to accommodate those Senators who may have amendments that will fall if cloture is invoked, if we can address those amendments first early in the week so we can make sure those who have other ideas and other proposals can be accommodated.

I will work with the majority leader to try to find a way to schedule a vote on cloture, if it comes to that, perhaps later in the day on Wednesday. Our preference is later in the day to accommodate those Senators, with an expectation that we can certainly finish the bill by Friday. I will work with our colleagues to see what arrangements best suit their needs.

Mr. WELLSTONE. May I ask a question of my colleagues?

Mr. LOTT. I am not clear, I may have yielded the floor.

Mr. DASCHLE. I yield to the Senator from Minnesota.

Mr. WELLSTONE. I appreciate that. That is very gracious of Senator DASCHLE.

Just to clarify a couple of things, this is the third time we have really had debate. On Monday and Friday, we know a lot of Senators are not around. I came back. It seems to me, if I may express my dissent, that the majority leader asked for a list of amendments prematurely. We all know that Senators, to protect themselves, list a number of amendments they may not use, and now that is being used as an argument for filing a cloture motion.

I work with the majority leader. We all disagree at times. I think it violates the spirit of what we talked about. I remember coming to the Senate floor and having a discussion that we would have substantive debate on the bankruptcy bill and Senators could offer those amendments.

We are just now starting that process, and now we are talking about filing for cloture. We have had 2 days on this bill. We all know on Monday and Friday people do not come. I am here, but a lot of people do not come. The majority leader asked for a list, and people listed a lot of amendments to protect themselves. In my humble opinion, the majority leader is using that as a pretext for premature filing of cloture, which goes against what I thought we were going to do with this bill.

I will finish. I know both leaders look as if they are more than ready to respond. We have a lot of amendments. People come out with amendments, and we go at it. If it takes 2 weeks to do a bill, we have done that on many bills. I do not understand why we are not doing that on this bill.

Mr. DASCHLE. The Senator perceives my stance correctly. I was prepared to respond. I must say I am not sympathetic to that argument, and I am very sympathetic oftentimes of the admonitions and suggestions of the Senator from Minnesota. Friday and Mondays are legitimate legislative days.

Mr. WELLSTONE. To be clear, I am not arguing they are not. I am just saying——

Mr. DASCHLE. I will be happy to yield again in a moment. I have done everything to encourage Senators to come to the floor to offer their amendments. For some reason, we have gotten into this habit of thinking any amendment offered after 6 in the evening is not really considered prime time, or it is not considered to be a legitimate time to offer an amendment. Fridays and Mondays are considered, for some reason, not equal in quality to Tuesday, Wednesday, or Thursday as times to offer amendments.

We have to break out of that mind set. We have done everything to petition Senators to come to the floor today to offer amendments. We did it on Friday.

Those Senators who now express some concern they are going to be precluded from offering amendments—when they passed up the opportunity on Friday, they passed up the opportunity to offer amendments later in the evening, they passed up the opportunity to come here on Monday—are not going to get much sympathy.

I am very sympathetic to many of the substantive questions raised by Senators with their amendments, but procedurally, if they are concerned about it, they ought to be here. They ought to come to the floor to offer these amendments.

I am hopeful we will get more reaction than we have so far, at least for the remainder of the day and tonight.

Mr. WELLSTONE. I will finish up. I say to our Democratic leader two things: No. 1, it still does not speak to my point—we talk about substantive debate, which is the commitment we made on this bill. Quite often, we are talking about 2 weeks of amendments and debate going through those amendments. All of a sudden, with the bankruptcy bill, we are talking about Friday and Monday as litmus test days and people need to be here. I am all for that. I am here.

I find it interesting that in the haste to get through this bill—I understand a whole lot of folks and a whole lot of powerful folks are for it—I think this violates what I heard stated last week. There are a lot of important amendments that are going to be clotured out now, and I think that goes against the agreement. I am expressing my dissent on it.

Mr. DASCHLE. I appreciate that. If I may, before yielding the floor—and I will certainly yield so the majority leader can respond as well—I am told that we asked virtually every author on Friday if they could be prepared to come to the floor on Friday to offer at least one amendment, and not one of our colleagues responded to that.

Again, I want to use these days productively. We are not using them very productively if we cannot even offer one amendment for consideration and a vote at some point Friday or Monday.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Madam President, I appreciate Senator DASCHLE's efforts. He and I have worked very hard to be fair on this legislation. I have the same problems he has. I do not want the burden to appear just to be on his side of the aisle. We have difficulty getting our Senators to offer amendments on Fridays and Mondays and even Thursday afternoons. Even though there are often very legitimate reasons that we cannot proceed late into the evening on Thursday, we are not able to do so.

I say to Senator WELLSTONE, yes, he was here I think on Friday and again this morning. Back on January 22, Senator DASCHLE and I started talking about trying to move this legislation. We have been trying to move it ever since. Even though I filed cloture, that does not end it. Amendments can be debated, amendments can be voted on, and we still have some opportunity to work through this, perhaps without cloture. I am not sure that is possible. It may not be.

The point Senator DASCHLE made was we have to go to campaign finance reform, and at some point we have to go to the budget resolution. The law requires we do it before April 15, so we are getting to the point where other things will overtake this bill.

CLOTURE MOTION

Mr. LOTT. Madam President, I send a cloture motion to the desk to the pending legislation.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 420, an original bill to amend title II, United States Code, and for other purposes:

Trent Lott, Robert F. Bennett, Chuck Grassley, Orrin G. Hatch, Susan Collins, Pat Roberts, Lincoln Chafee, Strom Thurmond, Frank H. Murkowski, Mitch McConnell, Rick Santorum, Jeff Sessions, Richard G. Lugar, Gordon Smith of Oregon, George V. Voinovich, and Bill Frist.

The PRESIDING OFFICER. The cloture motion is addressed to the motion to proceed, and I am advised we are on the bill.

Mr. LOTT. Madam President, if I may make a parliamentary inquiry, in view of the revision, I believe the clerk will need to read the whole cloture motion again.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 420, an original bill to amend title II, United States Code, and for other purposes:

Trent Lott, Robert F. Bennett, Chuck Grassley, Orrin G. Hatch, Susan Collins, Pat Roberts, Lincoln Chafee, Strom Thurmond, Frank H. Murkowski, Mitch McConnell, Rick Santorum, Jeff Sessions, Richard G. Lugar, Gordon Smith, George Voinovich, and Bill Frist.

Mr. LOTT. Madam President, as just stated, this cloture vote will occur on Wednesday unless it is changed by consent. The Democratic leader and I will discuss the bill and make a determination as to the timing. I am sure it will be in the afternoon, and we will see how late that will need to be. It would be affected by what has been achieved.

I ask that the mandatory quorum under rule XXII be waived.

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

Mr. LOTT. I yield the floor.

Mr. DASCHLE. If I might say to the majority leader, as I understand it, a number of amendments, in fact, over 20 amendments, have been cleared on our side. I guess we are awaiting some indication as to whether or not those amendments might be cleared on the majority side. That would move things along as well in terms of scheduling amendments. If Senators know those amendments have been adopted, we would be in a better position to whittle down the list and determine which of those amendments still need floor consideration.

Mr. LOTT. Keeping with full disclosure on this, I think our staffs have been working on that, and I think we did clear a number of amendments like this last time this bill was up. We were in hopes at some point perhaps that this could be done in such a way that we would not have to go to conference and the bill could be accepted by the House. It does not appear that will be possible.

We will try to clear as many of the amendments as possible. I will take it up with the chairman when we complete our action.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, is it appropriate to ask consent to set aside the pending amendment and proceed to other amendments to the bankruptcy bill?

Mr. GRASSLEY. Will the Senator yield for a question?

Mr. KENNEDY. I am happy to yield.

Mr. GRASSLEY. Madam President, would the Senator tell us the content of the amendment, or is there a copy we can have?

Mr. KENNEDY. It is an amendment dealing with health insurance benefits for the debtor's monthly expenses permitted in the consideration of the means test, the opportunity for those going through the process to be able to have included consideration for paying their health insurance and premiums.

Mr. GRASSLEY. I apologize. We have a copy.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts? Without objection, it is so ordered.

AMENDMENT NO. 38

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. KENNEDY. This is an amendment that if we had a cloture motion we would not have qualified, yet it is absolutely relevant.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mr. ROCKEFELLER, and Mrs. CLINTON, proposes an amendment numbered 38.

Mr. KENNEDY. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To allow for reasonable medical expenses, and for other purposes)

On page 10 between lines 17 and 18, insert the following:

''(V) In addition, if the debtor does not have health insurance benefits, the debtor's monthly expenses shall include an allowance to purchase a health insurance policy for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case if the spouse is not otherwise a dependent.

Mr. KENNEDY. Madam President, the Bankruptcy Reform Act of 2001 includes a means test that determines whether debtors will be granted relief under Chapter 7 of the bankruptcy code or whether they must enter into a Chapter 13 repayment plan. Supporters of the bill believe it will prevent abuse in the bankruptcy system. I believe, as do the experts, that it is problematic.

For better or worse, however, the means test is in the bill and it requires a calculation of the debtor's monthly expenses based on the Internal Revenue Service collection standards. The IRS standards provide for food, clothing, transportation, and some health care-related expenses. What the IRS standards don't provide for is the cost of health care insurance for many debtors, particularly those who recently lost their insurance or may not have been able to afford it.

The amendment I'm offering today says that if a debtor doesn't have health care insurance, the bankruptcy court must include a reasonable allowance for health care insurance for the debtor, his or her dependents, and his or her spouse, when calculating the debtor's monthly expenses.

This amendment is necessary because many Americans declare bankruptcy because of health care-related problems. A recent report tells us that nearly half of the 1.2 million Americans who file for bankruptcy do so because of medical problems. According to the report, in 1999, an estimated 326,000 families filed for bankruptcy because of an illness or injury to themselves or a family member and an additional 267,000 families had substantial medical bills. That is extraordinary. Again, in 1999, an estimated 326,000 families filed for bankruptcy because of an illness or an injury to themselves or a family member and an additional 267,000 families had substantial medical bills. Almost 600,000—nearly half of all those who filed for bankruptcy—filed for medical reasons.

During discussion of this legislation, we've found that there are three major reasons why people are filing for bankruptcy. One is job related and that is triggered for the most part, not completely but for the most part, because of the various mergers, downsizing and pink slipping effecting great numbers of Americans. Second, many women are filing for bankruptcy after falling on hard times as a result of divorce, lack of alimony, or lack of child support payments. And the third reason is health related. The explosion of health care costs, particularly in the area of prescription drugs, and the general cost of health insurance has led many to file for bankruptcy.

Close to 600,000 bankruptcies involve families or individuals—half of all of those who are going into bankruptcy—have health-related bankruptcies.

Two hundred and sixty-seven thousand of those who filed for bankruptcy in 1999 had no health insurance. A report published in Norton's Bankruptcy Adviser says:

The data reported here serve as a reminder that self-funding medical treatment and loss of income during a bout of illness or recovery from an accident make a substantial number of middle class families vulnerable to financial collapse.

Some families once had health insurance but, in an attempt to avoid bankruptcy, let their policy payments lapse so every penny could be used to buy food and pay the rent. Those families later find themselves in bankruptcy without an appropriate health insurance safety net.

Others never had health insurance because they simply could not afford it. And, others lost their insurance when they lost their job.

For example, one debtor tells us that he had a heart attack which led to quadruple bypass surgery. He amassed outrageous medical bills that he could not pay because he didn't have medical insurance. He then had to declare bankruptcy. Another debtor told us that the loss of a job, which led to loss of health care, precipitated bankruptcy. She used credit cards, credit cards, to pay for COBRA insurance and prescription drugs. The COBRA insurance won't last for very long, and soon she will be without any health insurance at all.

These families are now among the 43 million Americans who have no health insurance, and we must ask, what happens to them? The children fail to get a healthy start in life because their parents cannot afford the eye glasses or hearing aids or doctors visits they need. Family income and energy are sucked away by the high financial and emotional cost of uninsured illness. An older couple sees hope for a dignified retirement dashed when the savings of a lifetime are washed away by a tidal wave of medical debt.

Without health insurance, many families forgo health care. One-third of the uninsured go without needed medical care in any given year. Eight million uninsured Americans fail to take the medication that their doctor prescribes, because they cannot afford to fill the prescription. 400,000 children suffer from asthma but never see a doctor. 500,000 children with recurrent earaches never see a doctor. Another 500,000 children with severe sore throats never see a doctor. 32,000 Americans with heart disease go without life-saving and life-enhancing bypass surgery or angioplasty.

Overall, 83,000 Americans die each year because they have no insurance. It is the seventh leading cause of death in America today.

Given these facts, the Federal Government shouldn't be in the business of telling people to repay their credit card debts rather than pay for health care insurance. And, debtors shouldn't be forced to choose between eating and purchasing health care insurance while being forced to repay creditors. To avoid this Hobson's choice, when determining whether a debtor can repay his creditors, the bankruptcy court must consider health insurance premiums part of the debtors' monthly expenses.

I hope my colleagues will support this amendment. It adds some fairness and balance to an unnecessarily harsh bill.

This is something that can be dealt with by the bankruptcy judges. Obviously, the amount of repayment is going to depend to some extent on the size of the family's health insurance premium, and perhaps to some extent on where they live and the cost of health insurance in that area. But all of those kinds of calculations are readily made by the bankruptcy court and by bankruptcy judges.

This does not mean an unreasonable additional kind of responsibility. And, beyond that, for those who are strong in terms of the bankruptcy reform, this makes sense from their point of view because what happens is the individual who is in bankruptcy will be kept healthier and their families will be healthier and able to at least move towards meeting their responsibilities under the bankruptcy court, if they are able to go ahead and afford those health insurance premiums.

It is a win-win situation. It is a win in terms of those who are going to have responsibility for meeting their debts because they won't find additional kinds of drain on scarce resources, and it means they will be healthier and be able to afford to repay. It also works to the advantage of the individual and their families.

I believe this makes a good deal of sense. I look forward to my good friend from Iowa enthusiastically embracing this amendment so that I might get onto my second amendment which is equally commendable.

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

Mr. GRASSLEY. First of all, Mr. President, whether I enthusiastically endorse this or not, the Senator from Massachusetts knows that he can lay his amendment aside and move on to another amendment that he wants adopted since we will not be voting on these amendments until tomorrow.

The first thing I want everyone who has questions to know about this legislation is that we want people who have health insurance to maintain their health insurance when they go into bankruptcy because our legislation provides that health expenses, including health insurance, under the IRS guidelines—which are used by the bankruptcy court in deciding the ability to repay debt under our means test—are fully accounted for.

Not only are health insurance premiums subtracted, but all health care costs are subtracted out of a person's ability to pay in making a determination whether they go into chapter 7 where they get a completely fresh start, or whether they go into chapter 13 to make a determination of whether or not they have the ability to repay. If they are in chapter 13, then the extent to which they repay the final judgment is that those people in chapter 13 will not get off scot-free.

But in making that determination, all health costs are taken into consideration.

The reason I take some time to emphasize that point is because we have had several speeches on the floor of the Senate that say and imply we do not want to take into consideration all those health care costs in making that determination. We even had the Time magazine article of last spring in which there were several case studies done by Time magazine with the implication that if this legislation passed, those people would not be able to get into bankruptcy court for fair consideration of whether or not they could repay their bills, and whether or not they get a fresh start.

In a lot of those case studies, there was the implication that they were going into bankruptcy court because of high health costs.

In every one of those instances, as I have said before on the floor of this Senate, those folks used in that magazine article would have been able to get a fresh start under our legislation.

Consequently, we still have this brought up as somehow a problem of our bill because we are not going to take into consideration people who are in bankruptcy being able to maintain their health costs and health insurance.

I asked the question last week for those Senators who think we do not give adequate consideration through the IRS guidelines of whether or not somebody should be in chapter 7 or chapter 13: If we don't, do we give credit for 100 percent of health cost? If 100 percent isn't enough, would 101, 102, or 110 percent be enough?

Now we get to this situation that Senator KENNEDY has brought to our attention.

I give the prelude to this by saying our legislation takes into consideration 100 percent of health care costs, including paying health insurance.

If the person does not have health insurance before going into bankruptcy court, obviously the person does not have an expense out there to claim in bankruptcy court.

It seems to me what Senator KENNEDY is trying to do here—because we already allow people who have health insurance to maintain that health insurance as one of those legitimate costs—is raise the possibility that a debtor who did not have health insurance before he went into bankruptcy court ought to be able to carve out a portion of the creditor's claims, and would be able to get a fringe benefit, or a benefit they did not have before they went into court.

I think we have a couple of questions to ask. Is there any provision in this amendment that requires the debtor to use this allowance for health insurance? And is there any provision to verify that the money is being used for health insurance if it is allowed?

Since the debtor wasn't using the allowance for health insurance before bankruptcy, it seems to me we need some guarantees on how the money will be spent.

I have those questions. If the Senator wants to respond to those, he can. If he doesn't, there are questions out there that have to be answered.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I would be glad to work out the question as to how the debtors are going to make sure they are going to get an allocation in terms of health insurance—to make sure it would be used for that particular purpose. I would be glad to work out over the nighttime those kinds of protections. But I say the answer would be the same way that particular provision applies to food and rent. You do not have the additional written in stone with regard to food and rent in this particular proposal. But if you want additional kinds of protections to ensure that it goes to insurance, I do not think that is going to be really a stumbling block.

Now let me just respond to the general theme my good friend from Iowa discussed.

This amendment simply ensures that while a debtor is repaying his creditors, he has enough money to purchase health insurance for himself and his family. The supporters of the legislation assert that the other necessary expense provisions in the IRS collection standards include health care insurance for all debtors. That simply is not true. The other necessary expense provision does say that other expenses, which may meet the necessary expense test, includes health care. But if a debtor has recently lost his health insurance or lost his job—and therefore his health insurance—health care insurance premium expenses will not be included in his monthly expense allowance. And the IRS staff confirms that.

So a Senator says: Look, if they paid their health care insurance premium at the time, we will make sure they will be able, within the IRS means test, to pay their premium as well.

The point is, as we have seen with great numbers of people, almost half of those who have gone into bankruptcy have done so because of health-related expenses. The great majority of those are losing their health insurance, or they have health insurance and it does not cover these catastrophic additional kinds of costs, or they have lost their job and lost their health insurance. They are not provided for.

Here is somebody who has worked hard all their life, paid into their health insurance, then they lose their job, lose their health, and they run into one of these catastrophic illnesses, and they had been paying the premiums all of this time. But there is no provision for them, even though they have conscientiously provided health insurance for themselves and their families throughout their employment. They cannot even work that out with the restrictive language here.

There ought to be a reasonable way of ensuring that those people are going to get health insurance within the means test standard, which supposedly looks at essential needs. I think getting health insurance is an essential need. It is as important for many people as food and a roof over their heads.

As we've seen, many people are unable to take the prescription drugs they need. We find, from all the medical indicators, the number of people who do not have health insurance and who end up actually dying.

So that is what the bill that is before the Senate fails to respond to; and those are the real facts out there in terms of these individuals losing their jobs and losing their health insurance. They find out that even though they paid into their health insurance over a lifetime, they run into these catastrophic kinds of additional illnesses—here they were, paying in, working hard—and, under the language in the bill, there is virtually no kind of inclusion for them.

I think health insurance protection for their families makes an enormous amount of sense with regard to individuals, and it makes an enormous amount of sense in terms of the individual's ability to meet their responsibilities of payment under the Bankruptcy Act.

It just seems to me that those are the additional kinds of protections we are talking about. It isn't that this individual is going to be able to set the sky as the limit, and try to walk out of there with a good deal of free cash in their pockets.

We would be glad to include in the RECORD very extensive analyses of what the costs are for individual workers and for families, using GAO figures. We could make that part of the RECORD. That could be a pretty clear indication of a reasonable standard that might be used or might be followed. But that is why I believe this is so important.

In many ways, this amendment, as I mentioned, will improve the debtor's chance of being able to repay his creditors while also ensuring that he and his family have a decent—not luxurious but decent—standard of living.

If the debtors are able to purchase health insurance, they will be able to withstand the predictable and unpredictable circumstances that are part of everyday living—the birth of a child, a previous undiagnosed illness, necessary trips to the doctor's office. Instead of scraping for pennies to pay those bills, the debtor and his family will have the health insurance that every American needs. Instead of failing to meet the obligations of a chapter 13 repayment plan, all available resources must go to unexpected health care expenses. The debtor can meet both obligations.

So I hope we can continue to visit this issue and see what we might be able to work out.

AMENDMENT NO. 39

Mr. KENNEDY. If it is the desire of the floor manager, I ask unanimous consent that the existing amendment be temporarily laid aside and we go to the amendment which is what they call the cap on IRA assets.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I believe the Senator has that amendment.

Mr. GRASSLEY. Reserving the right to object, and I will not object, before we go on to his next amendment and lay this one aside, I hope I can continue a dialog between the staff of the Senator from Massachusetts and my staff to see if we can make arrangements, so that we know the money that is set aside is used for health insurance, that it is verifiable, that it would not be used for some sort of Cadillac insurance policy that maybe the person would not otherwise have had in their place of employment, and things of that nature. If we could talk about that, we might be able to work something out.

Mr. KENNEDY. Sure. I appreciate the attitude of the Senator. We would be glad to try to follow through with that. I am grateful for the Senator's interest and sensitivity. I appreciate that.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 39.

(Purpose: To remove the dollar limitation on retirement savings protected in bankruptcy)

Beginning on page 101, line 10, strike all through page 102, line 2.

Mr. KENNEDY. Mr. President, this bankruptcy bill includes a provision that would undermine existing pension law by allowing creditors to claim workers' retirement savings in bankruptcy. One of the greatest domestic policy challenges facing Congress is the challenge of ensuring that elderly Americans do not live in poverty. After a lifetime of hard work, senior citizens deserve a secure and comfortable retirement.

Clearly, we need to do more to improve the private pension system. Nearly half of all working Americans—some 73 million men and women—do not have pension coverage. The lack of pension security is a critical issue. It is a women's issue, because only 39 percent of working women are covered by a pension plan. It is a civil rights issue, because only 26 percent of Hispanic workers and 38 percent of African-American workers have pension coverage.

So it is imperative that Congress do all it can to expand pension coverage and encourage retirement savings. We must work to improve our retirement savings system—not move backward. The provision in the bankruptcy bill that would cap the amount of retirement savings held in individual retirement accounts that can be exempted from a debtor's bankruptcy estate is a step backward.

Federal pension laws are intended to protect workers by guaranteeing that their retirement savings will be there when they retire. The entire pension community—worker groups, employers, mutual fund companies, and other pension service providers—are united in opposition to a cap on retirement savings for three reasons: one, it is unnecessary, two, it is unworkable, and three, it would discourage savings and portability.

First, a cap on IRA savings is unnecessary because Federal tax law already imposes strict limits on IRA contributions. The cap is aimed at preventing wealthy individuals from trying to stuff assets into their IRAs before declaring bankruptcy. But because IRA contributions are limited to only $2,000 per year, wealthy individuals cannot stuff assets into an IRA before filing bankruptcy as a way to avoid paying debts. At the rate of $2,000 per year, it would take about 40 years to accumulate retirement savings of $1 million.

Second, the cap is unworkable. It will be extremely difficult—if not impossible in many cases—to administer. There are thousands of IRA accounts with balances in excess of $1 million due to rollovers from 401(k) plans and other retirement vehicles. Under the current bill, those rollover amounts (and the earnings on them) would not be available to creditors. However, a bankruptcy court will need to sort through those accounts to determine how much of the account came from direct IRA contributions and how much came from rollovers.

The court will also be forced to calculate how much of the earnings in the account should be attributed to the IRA contributions and how much should be attributed to the rollovers amounts. That will be a time consuming administrative burden with no benefit to creditors.

Third, the cap will discourage retirement savings and portability. Using retirement savings in IRAs to satisfy personal debts is unprecedented, and collides head-on with efforts by Congress to encourage individuals to save for retirement. Already, more than 60 percent of workers who change jobs take their retirement savings and spend the money rather than rolling the money into another retirement vehicle.

The cap will undermine the trust that over 35 million American households have placed in the IRA as a safe and secure retirement savings vehicle,

and will discourage workers from rolling money into their IRAs when they change jobs.

I believe this provision would jeopardize the retirement security of American workers. This is simply the wrong message for Congress to send, particularly at a time when we are trying to encourage additional private-sector retirement savings to ensure retirement income security for the aging baby boom generation.

Mr. President, I hope this amendment will be accepted. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I take this opportunity to tell my colleagues why the amendment offered by the Senator from Massachusetts is a very bad amendment.

First, I want to make clear that this amendment applies just to IRAs; it does not apply to pensions. In addition, I would like to have people reflect on the position of the Senator from Massachusetts on this amendment and the position on the previous amendment. It seems to me the Senator from Massachusetts is very much in character with his amendment on making sure there is a preservation for the ability of people in bankruptcy to keep health insurance. That, for a long time, has been a concern of his for people who have needed health insurance, maybe couldn't afford it—how to be able to get it to the people. Of course, when bankruptcy steps in, it is very appropriate for him to offer an amendment that would preserve health insurance for people. That would most often fall into the category of his protecting those people who have lesser incomes.

So it is quite out of character for me to respond to the Senator from Massachusetts about an amendment about a provision in this bill where we have a $1 million cap that protects retirement accounts and that you would have to have resources over that $1 million in determining the ability to repay.

As the author of this legislation, I am very embarrassed that I would have in my own legislation a $1 million cap that would say people could protect $1 million from their creditors as they went into bankruptcy. That $1 million cap is in here because I didn't want any cap whatsoever. I had to make an arrangement with Senator KENNEDY last year to reach compromise on this matter, and we compromised on $1 million.

In addition, for the Senator from Massachusetts, who never is very often found defending the economic needs of those over $1 million a year in savings and wanting to protect that $1 million from bankruptcy, it seems to me somewhat out of character for him. It makes it a lot easier for me to oppose his amendment that would eliminate the cap on IRA savings.

He argues that the $1 million cap would be difficult to administer because 401(k)s and other retirement rollovers are excepted from this cap. He argues that the cap will be an administrative hassle with no benefit to creditors. I argue that the bankruptcy bill is all about having people who can repay their debts do just that—in other words, pay their debts.

How many times have you heard me say the purpose of this bankruptcy legislation is, for those who are gaming the system, those who are using the bankruptcy laws for financial planning, that if you have the ability to repay, you are no longer going to get off scot-free.

People who have the ability to repay their debts should not be protected just because they have stashed away an IRA account. That is why we have this $1 million cap. I don't even think the cap should be there, but it was part of the compromise last year. We need to have a cap on these savings so that people who can pay will be required to pay a portion of their debts.

I don't think the super-rich should have additional protections just because they can squirrel away their money in a retirement account. The $1 million cap is consistent with our policy of encouraging people to put away money for retirement, but we also need to balance this with a policy that people who buy goods and other merchandise should pay for them if they can. We can't allow deadbeats to get away with stiffing creditors. That is why our bankruptcy bill is here. That is what it is all about: Imposing some responsibility on people who can pay their debts.

I would like to give you an example about abuse of the system. This is from a press report. Dr. Neil Solomon declared bankruptcy after three female patients sued him for sexual misconduct and sought $160 million in damages. Dr. Solomon paid these women less than $100,000, while keeping a home in Baltimore, MD, valued at $323,000, a Mercedes Benz, valued at $42,000, and $2.2 million in a retirement savings account.

Congress should place reasonable limits on the ability of highly compensated persons, such as Dr. Solomon, to shield millions of dollars from creditors simply because the assets are deposited in retirement accounts.

Clearly, Congress never intended for savings in retirement accounts to become safe havens for the wealthy who seek to avoid paying their bills by declaring bankruptcy.

I also point out to my friend from Massachusetts his position is much contrary to his position in regard to the homestead exemption. He says people who can pay their debts should not be able to shelter their assets in a million-dollar homestead. But at the same time, he seems to be saying that people should be able to shelter their assets in $1 million IRA accounts. That is what he is doing right now by lifting that $1 million cap.

Moreover, I don't think the provision in our bill will impose an administrative burden, particularly because the amount of the cap is so high. I don't think it is unworkable, and I doubt that the administrative burden charge will ever materialize.

In addition, I remind my colleagues this is an agreement that was agreed to in the compromise pension bill last year. I didn't want this cap in here, but I took it in the process of doing what I could to alleviate some fears so this legislation could get passed. In other words, we cut a deal, and I hope we stick by this deal. We need to retain the hard limit of $1 million on the amount of IRA money that any person who declares bankruptcy can shield from his or her creditors. Just because it is a retirement account does not mean you can get away from paying your debts with it. This is just plain wrong because this is anti fraud and abuse reform, and it is badly needed. I strongly urge my colleagues to reject the amendment.

I wish to point out that we put the exclusion of rollovers in the bill at the request of the Senator from Massachusetts. So if the Senator is concerned about administrative burdens, we would be happy to take out the exclusion of rollovers. But my point to the Senator from Massachusetts is that we cannot have this both ways.

I also suggest that I was lobbied against any restriction. I was lobbied on the protection of pensions and IRAs from being a source of repayment to creditors—not by individuals going into bankruptcy or people who had strongly felt views as individuals that this money should be protected from the creditors.

The source of interest in this legislation came from the pension and insurance industries of my State who felt they did not want to be bothered by the bankruptcy courts, so they wanted to retain protection for pensions and for IRAs. They tried to make this historical claim that it had always been this way. It is one thing to work on the floor of the Senate to protect the interests of the little guy who is going into bankruptcy; it is also OK to work on the Senate floor to make sure we do preserve the ability of people to retire with dignity. It is quite another thing to protect the interests of those who want to retain a high lifestyle after they have gone into bankruptcy and, at the same time, be in retirement. But it is quite another thing to protect the interests of all the big business companies of America that are writing this business and don't somehow want to deal with the bankruptcy courts.

I ask my colleagues to oppose the amendment by the Senator from Massachusetts. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I hope my friend from Iowa will continue to reason with us a little bit about this particular provision. I point out to him that for a long time in the Senate I have been interested in championing the interests of working families and the interests that deal not only with the basic issues of education, health, and housing, but also retirement programs. That is a key element. The Senator knows, as a member of the Finance Committee, how much of the tax expenditures go to individuals making over $100,000, what the general taxpayers are paying under tax expenditures at the present time that are being deducted. Those are the higher income groups. There is very little for working families, and he understands that very well as a member of the Finance Committee.

I don't retreat a single step in terms of my desire to make sure we are going to have sound retirement programs for working families, schoolteachers, and other workers. The illustration that the Senator from Iowa gave us about some doctor who had all of these savings is not applicable. It doesn't even relate to what we are talking about because there is only a $2,000 contribution that one can make to an IRA. Who uses the IRAs? Basically, it is the working families. The Senator understands that. Who uses the 401(k)? They are basically the more affluent individuals in our society. Those are the facts.

But it is interesting that the bill the Senator has introduced protects the 401(k), but not the IRA. So I don't want to have any misunderstanding. The Senator's position is protecting the 401(k)—$10,500 a year can be put in an 401(k), but only $2,000 in IRAs. This is a millionaire's loophole? The Senator knows as well as I that you haven't even got anybody who qualifies for the cap on IRAs at $2,000 a year because the IRAs haven't been around long enough. You have tens of thousands, hundreds of thousands of people in 401(k)s. But 401(k)s are not going to be touched by the bankruptcy court. Oh, no, just the IRAs, which serve whom? Working families—with limits of $2,000.

The more we get into this, the more difficulty we have in understanding what the logic is in terms of defending 401(k)s. The fact has been, historically, that it has been the opinion of the Congress—with the exception of this Congress and this bill—that retirement moneys would not be included in terms of the bankruptcy provisions. They earned it and set it aside as retirement funds, and it would not be included. In the course of our hearings on bankruptcy, there were very few that would allege this kind of circumvention in terms of IRAs.

If the Senator is able to give me examples, or hearings, or testimony on where we had all of these abuses in the IRAs—we are talking about a schoolteacher making $40,000 a year who puts aside $2,000 in order that they can retire and have substantially similar kinds of income when they retire. They would have to do it probably for 35 years in order to be able to get the kinds of resources allocated so that they are going to be able to do it. Those are not the people we are talking about in terms of gypping the credit card companies and the banks. The Senator knows that.

The Senator knows that. I do not understand why we treat these retirement funds differently: One way for 401(k)s and another for the IRAs, which is the appropriate device working families have used and with which they are increasingly developing some confidence.

We are going to be debating, we hope, Social Security. The average Social Security is $13,000. That is the average Social Security check. Eighty percent of those on Social Security live below $25,000. We have to ask: What are we going to do to encourage individuals to save, particularly working families? We have not done a very good job of it as a matter of public policy. We have done a very poor job.

We do a very good job with respect to the most affluent members of our society. We have all kinds of tax support in the Internal Revenue Code, but for working families, we do a very poor job.

This is one of those small areas, the IRAs, that is open to working families and on which we do not mind putting on the additional cap. On the other side, we have serious reservations putting a cap on the 401(k). I do not think that is fair.

Also, undermining retirement money that has been paid in over a lifetime, which may very well be a lifeline for that family, can be eliminated, wiped out, in 4 days of catastrophic illness in a hospital. That is what we are talking about. Four days of a catastrophic illness for themselves, a wife or child, and it is wiped out. That is what the current bill will do.

We encourage people to work hard, play by the rules all their lives, and put something aside with which to retire in peace and dignity. I caught myself getting choked up when the Senator talked about a millionaire's tax loophole because it is not; it is $2,000 a year. One has to contribute for an awful long time to use this as a gimmick. There are a whole lot of other gimmicks in this bill, such as the homestead provision and other provisions that can be used a lot easier than this one.

For these reasons, I hope we prevail.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Iowa.

Mr. GRASSLEY. Madam President, the Senator from Massachusetts is digging a hole for himself. No. 1, he talks about the difference between 401(k)s and IRAs. He can mention $2,000, he can mention $10,000, but there is a cap of $1 million. That means up to $1 million is not subject to bankruptcy.

Then he mentioned IRAs and 401(k)s. I remind the Senator from Massachusetts that 401(k)s are not covered because he objected to their being covered, and we took them out. They are not part of it, not because that is the way I want it. I think 401(k)s ought to be capped at $1 million as well, if there is a cap at all. Madam President, 401(k)s are different than the individual retirement accounts capped at $1 million, because that is what Senator KENNEDY requested we do.

The other thing mentioned was about my being chairman of the Senate Finance Committee and tax expenditures. First of all, I do not buy the philosophy of tax expenditures because that implies every penny working men and women in America earn belongs to the Federal Government and we are going to let them keep some of their own money. I start from the premise that the hard-working men and women of America, every penny they earn is their money, and we tax them for part of it.

Just in case there is some injustice under present pension laws—I admit there are injustices in present pension laws. The Senator from Florida, Mr. GRAHAM, and I have introduced legislation to correct some of those inequities and particularly to correct some of those inequities to benefit the very low-income wage earners to whom Senator KENNEDY is saying we do not give enough credit.

Before this Congress is done, hopefully even before the first bill gets to the President of the United States, we will have passed some tax legislation to take care of some of those inequities in the pension laws of the United States, plus the fact that we had legislation out of our committee last year that increased the $2,000 IRA limit to a $5,000 IRA limit.

I want to get back to the reason for having this $1 million cap on individual retirement accounts, that anything over that is not protected from the creditors.

Let's get it clear: Below $1 million is protected from the creditors in bankruptcy court. I quote from President Clinton's administration in their support of the concept of the cap. This is last year's legislation as we were discussing this issue then. The Department of Justice said:

> A debtor should not be able to shield abundant resources from creditors, including Federal, State, and local governments, in the form of retirement savings.

I quote from the Securities and Exchange Commission:

> We have seen insider traders do their trading through IRAs and fraud participants stash their profits in their IRAs. The State law exemptions have not defeated our Federal statutory claims to date, but a new Federal exemption could do so. I am concerned about the grave potential abuse that the exemption for all retirement assets from bankruptcy estates poses.

That is a letter from Judith R. Starr, assistant chief litigation counsel, Securities and Exchange Commission, to members of my staff.

The Department of Labor:

A fresh start is not meaningful if it requires a debtor to accept an impoverished retirement. However, a debtor should not be able to inappropriately shield resources from creditors, including Federal, State, and local governments in the forms of retirement savings.

That is a letter from the Secretary of Labor to Senator HATCH, April 14, 1999.

On the other hand, there are those among my colleagues across the aisle who oppose the $1 million IRA cap that would prevent, to some degree, the rich from shielding wealth from creditors in an IRA. In my view, a wealthy debtor should not be able to shield large amounts of wealth from creditors in an IRA or in a home.

The compromise provisions in the bill that we worked out with members of the other party last year make important improvements over current law and should be retained.

Accordingly, I urge my colleagues to oppose the effort to strip out the individual retirement account cap. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, there may be others who want to speak on other matters. As I mentioned earlier, the IRA was developed as a retirement account basically for working families. The majority of those who contribute are individuals who earn less than $30,000 a year. These are the people who are putting in only a couple thousand dollars. They are limited over a lifetime. You put the cap there. The retirement program has historically been out of the reach of the credit card companies and the bankruptcy courts, the retirement savings.

Now for the first time we are seeing an intrusion on that. There is a cap. It is not being put in for the 401(k), basically the high rollers. If you are not going to put it in for the 401(k)'s, you should not put it in for the retirements for the working families. We will have a commingling of the funding and there is a good chance there will be an additional burden and cost in terms of the IRA. It doesn't make a great deal of sense.

I thank my friend from Iowa. As always, he is a friend and I enjoy working with him on many different matters. I will study more closely his pension legislation this evening and give it a good deal of additional thought.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I make crystal clear when we talk about $2,000 and $10,000 and $30,000, as the Senator from Massachusetts has, it sounds as if we are just clamping down on people who should be getting a fresh start in chapter 7 instead of being chapter 13 with ability to repay.

I make very clear the first $1 million is exempted. That causes a problem for the Senator from Massachusetts. I am embarrassed to present a bill to the Senate of the United States that says a millionaire is going to be protected from bankruptcy court if he can pay his bills.

Now the Senator from Massachusetts raises a very legitimate point. There could be a catastrophic illness that could eat up a lot of the money, even $1 million, presumably. We have even taken that into consideration; that is, we have an interest of justice exception that would be applicable in this case. So something over $1 million could be exempted. I hope the Senator from Massachusetts realizes we have gone through this last year. We tried to accommodate the Senator from Massachusetts. We had a compromise I was embarrassed to accept in the sense that a $1 million exemption is way too high for my background. But I did it because I thought it was important we move this legislation along. We are talking about just preserving in the bill before the Senate a compromise worked out last year that would be law today except for a pocket veto by President Clinton. Otherwise, this Senator from Massachusetts wants to strike that compromise, and he was part of that compromise. I guess I beg him to stick by his compromise.

I yield the floor.

Mr. DOMENICI. I ask consent to speak as in morning business.

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

THE PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 515 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

THE TAX CUT

Mr. DOMENICI. Madam President, I speak of the size of the tax cut the President of the United States has asked us to adopt. The occupant of the chair knows the Senator from New Mexico is lucky in that I have a wonderful person at home who asks me a lot of questions about what I am doing. It is a great sounding board. I think the occupant knows that is my wife.

My wife spoke to me about 10 days ago as an average citizen because she and four friends, all of whom were women, stopped by after getting together to have a cup of coffee. There were questions raised by these nonpolitical women—not necessarily Republicans—as to why such a big tax cut? Why can't we wait? She addressed the question to me.

I said I think it is time the American people deserve to be told the size of this tax cut. I have a chart. I don't know if it has been seen on the Senate floor, but it is interesting. The red area indicates $1.6 trillion as the entire tax cut alongside what we select in taxes during the same period of time. It is most interesting. During the same time we are asking the American people be given back $1.6 trillion, we will collect $28 trillion in taxes. Maybe that puts it a little bit more in perspective, that it is not such a giant tax cut in proportion to the taxes America collects.

The green portion of the chart is broken into two. The bottom is individual income taxes, and we have corporate income taxes, and other taxes.

This is what we collect. This from individuals—14, and 28 total. Over 10 years, it isn't such a very large tax reduction.

We might also suggest by way of words that both President Kennedy and President Reagan cut taxes.

Incidentally, both of them—one Democrat and one Republican—cut marginal rates. They reduced the top rates. They reduced both the middle rates and the low rates for the same reason.

President Kennedy was advised that he ought to do it because of the fact the American economy had to be built up and grow and prosper, and one of the things he ought to do as a Federal official was lower the marginal tax rates. Lo and behold, that is what a Democrat President did. He did that without the surplus we have.

Isn't it amazing? We are talking about being sure of everything that is going to happen; that we are going to have enough money to pay down the debt. There were deficits in each year of the tax cut of President Kennedy.

We have a predicted surplus of $5.6 trillion.

Second, the size of the Kennedy tax cut was twice the size in proportion to the American economy.

Then Ronald Reagan did marginal rate cuts also along with some other things. Congress loaded it up, so to speak. But marginal rates were reduced substantially. That was three times the size of this tax cut.

Our President, with reference to asking for a tax reduction for the American people, has been certainly modest in what he is asking for in comparison to the total taxes.

Second, some people wonder why we do this over 10 years. We want to suggest to the American people that it is permanent, and at the same time, we want to suggest to ourselves the money is not even going to be collected in the second, third, fourth, fifth, and sixth years. It is just staying with the American people. So it won't be around here. It won't be in the budget of the United States. It would have already disappeared from our grasp. We will not have it to spend. The American people will have it in their paychecks, in their profits of small business, which they distribute as individuals. It will go to them.

There is nothing better than doing this, and I say do it as quickly as we can to send a signal to at least the part of the American economy that is not doing well, and a few States aren't doing well. My friend from Ohio, Senator VOINOVICH, was telling me today about Ohio having some real economic problems. It is far different than New Mexico's problems. They need a signal from the Congress and the President

that we care about them, that we are concerned about them, and that we are cutting marginal rates so as to give some credibility to our concern about the economic future in many parts of the United States, and, generally speaking, over the next decade, the status of our economy in general so people and families will have a better chance. It will be an important 10 years in terms of job opportunities and consistent paychecks. That is what that is. I hope everybody knows this is a reasonable way to do it.

Maybe we will get around soon to satisfying some who have a little bit of concern about whether we are paying down the debt, and whether we will continue paying it down over time. They are asking for some kind of trigger mechanism. Obviously, this Senator hasn't seen one that will be in place. Yet that will leave the effectiveness of the tax in place. Clearly, I say to those who want a trigger that you can't do a trigger that triggers every year because then the people won't be getting the benefit of this tax cut. They can't buy a car and pay because you only get the tax cut for one year, and that is a ''maybe'' tax cut. It is not a real tax cut. One year at a time won't work, especially if you want the effect of marginal rates, which means lowering at every level a significant amount, though the lower level is getting a bigger percentage of the reduction.

While I haven't seen any that leave the effectiveness of the tax in place, I am willing to work with Members, the distinguished Senator, Ms. SNOWE, the occupant of the chair, many others, and Democrats working on this issue. I say let's continue working on it. There may be some way to do some collections, but certainly it should not be every year. There should be a broad-based look at this so we look at spending also. We should look at the debt if we are going to be doing it.

That is the conversation I wanted to have about the budget and tax cut.

I want to add to that. It is pretty obvious the Committee on Budget of the Senate, which now has 11 Democrats and 11 Republicans—it should be pretty obvious to everyone that we can't get a bill out of that committee that gives the President an opportunity to have his tax measure considered by the Finance Committee. You understand that the budget resolution just permits it. This makes room for it. In this case, up to $1.6 billion. It doesn't say you have to pass $1.6 billion. But we can't do it in the committee because we are tied. On every matter of real substance regarding this budget we are going to be tied.

The taxes are well known by those who have worked with us. If it is in the Budget Committee for a long time, come a certain date—I believe it is April 1—statute of law says if you haven't produced a budget, then you can call one up here. The Parliamentarian is familiar with that as is the occupant of the chair. I haven't given up on the committee doing it. I want to have more conversations. But if we can't come in closer than we are now, I don't intend to have a week's worth of votes pro and con, each one being 11–11, and then pass one 12–10. It isn't going to be very meaningful. I may let everybody talk for one day, let April 1 arrive, and then call up the budget. We will be working with a number of people on that premise.

BANKRUPTCY REFORM ACT OF 2001—Continued

AMENDMENT NO. 29 AS MODIFIED

Mr. DOMENICI. Now let's get down to tomorrow afternoon and vote because on the bankruptcy bill, the distinguished Senator, Mr. KENT CONRAD, ranking member, put an amendment on with reference to the Medicare trust fund and the Medicare program. This is side by side. There will be another amendment offered by Senator SESSIONS. I believe my staff helped put it together. I was in another meeting. Senator SESSIONS introduced it. I want everybody to know it is, indeed, what I would recommend.

I would like very much tomorrow to make sure all Senators understand that we helped prepare it and are very pleased Senator SESSIONS was on the floor. We will call it the Sessions-Domenici amendment. I want everyone to know, just as a matter of fairness to the distinguished Senator on the Democrat side, Mr. KENT CONRAD, that, in fact, the point of order will be raised. It is not being raised now, but I believe a point of order will be agreed to. That amendment will take 60 votes.

Obviously, on the Sessions-Domenici amendment, it is 60 votes. The Democrat amendment hasn't changed that much. The point of order wouldn't lie against ours, but on ours it would be subject to the same.

I hope the bankruptcy bill will pass—either of them—because they do not belong on the bankruptcy bill.

But, first, let me emphasize that President Bush has made it very clear—I am not quoting, I am paraphrasing—no moneys from the Medicare trust fund will be spent on anything other than Medicare. He said that. He has had various Members testify. There have been serious questions made of the Secretary of Health and Human Services about this trust fund concept that is being raised by Senator KENT CONRAD's amendment.

I asked him clearly: Did the President change his mind? Is there anything new?

No. It is just what it was, and now he looked at hundreds of millions of Americans and said none of the Medicare trust fund money will be used for anything other than Medicare.

As everybody knows, I don't have any intention of bringing a budget resolution to the floor that spends any Medicare money, or on anything other than Medicare. As a matter of fact, Medicare will be fully funded, as it is by the President of the United States.

Having said that, we should be clear on one thing: The Conrad amendment is not about protecting Medicare. That amendment is about using scare tactics to prevent a tax cut. That always happens every time we have something significant where we say, let's give the American people back some of their money, or even better, let's not even collect it. Let's leave it with them, never bring it up here so we have to cut taxes; just let them keep it.

Every time that happens, it becomes obvious the arguments against it wilt; they are not strong enough. So along comes the typical argument: The Republicans and the President must be doing something about Medicare, something to harm it, hurt it.

The American people, in the last election, did not buy that argument because seniors, it seems like from at least what little we know, voted for George Bush in pretty large numbers. They did not believe the scare tactics that the Social Security trust fund was going to be harmed by the President's idea in relation to the individual accounts. They did not believe the idea that Medicare was going to be hurt.

The same thing here. Senator CONRAD has taken out the traditional tactic, and now he is making it an early issue with reference to the budget by trying to attach it here on a bankruptcy bill that is moving through the Senate, and because it is the third or fourth time we have considered it, it has to get passed.

As I see it, things are certainly not going the way of those on the other side of the aisle. The President has proposed returning a small portion of the non-Social Security, non-Medicare surplus to the American taxpayers, and the momentum is moving with the President. On the chart I have here, that is this small red amount that he has proposed we give back to the American people, or never collect from them.

But some on the other side are happy to still be against this President's tax proposal. So out comes the Medicare card, and suddenly it becomes a question of tax cuts versus Medicare. But Senator BREAUX, from the other side of the aisle, was correct when he said:

> Medicare must not be used as a wedge issue any longer. The question before this Congress is not whether to cut taxes or whether to save Medicare. That's not the choice we're facing.

The choice is something different than that. And he continued:

> I support a tax cut, targeted, and I'm dedicated to saving Medicare. It's not an either/or proposition.

Now, that is a true statement, whether or not you choose to have a targeted tax cut or the President's notion—and the notion I support—of cutting everybody's income tax rate as described here on the chart.

The Breaux statement is:

> I support a tax cut, targeted, and I'm dedicated to saving Medicare. It's not an either/or proposition.

Frankly, the amendment I am talking about really attempts to make it an either/or proposition.

I know for seniors, and for those who are worried about the seniors' futures, and making sure we take care of Medicare, this business of Part A and Part B is not nice to talk about, but the Part A part of Medicare is essentially the hospital care program of Medicare; it is the hospital care part. The assets of that trust fund are depleted in 2026. At that point, Part A of Medicare will start running an overall deficit.

As we look at the entire Medicare program, instead of just Part A, what is the rest of it? The rest of it, Part B, are all the other services that many senior citizens get under the collar and title of Medicare. All of those programs are Part B, except essentially the hospital ones which are hospital bills and are Part A.

So if we look at this program instead of just Part A, we see that Medicare is already running a deficit. Let's look at it. There is a $58 billion total Medicare deficit—$58 billion—in the year 2002. Very simple. It is shown right there on the graph. There will be a nearly $1 trillion Medicare deficit over the next 10 years. It is shown right there on the graph.

So what do we need to do? Everybody knows what we have to do. We have to reform Medicare, not just shuffle money around. We have to reform it. But this amendment I am talking about, that I oppose, will make reforming Medicare more difficult.

The amendment wants to take half the Medicare program off budget while leaving the other half on budget. How can we reform a program that is half on budget and half off budget when we need to reform the whole package?

I want to point out, the amendment is not the same one that was offered last session by the same Senator. Under his current amendment, the Part A surplus cannot be reduced for any reason, even for additional Part A spending. At least last year, his similar amendment would allow Part A surpluses to be spent on Part A Medicare expenses.

So while President Bush has promised that Medicare funds will be spent only on Medicare, the amendment I am opposing does not allow Medicare funds spent at all, even for Medicare. They are off budget. And I assume they are expecting us to use all of them to buy down debt. Now, maybe I am mistaken, but that is the way I read it.

We believe, if we are reducing the deficit of the United States by $2 trillion, as the budget resolution and the President request, which is what we are doing—we are going to leave $1.2 trillion there for remaining debt—that you cannot reduce the debt any more. What are you going to do with this Medicare trust fund taking it off budget? Where are you going to invest it?

It seems to me we have to invent a whole new way to permit it to be invested. Frankly, I do not know what that would be. And I do not think that helps. I do not think that helps save the Medicare program.

I want to show my colleagues, on this graph, the red is income to the trust fund, the green is spending, and the blue is assets. Look at this. Look what has happened. The trust fund will be depleted by the year 2026. Spending will exceed income plus interest in 2018. And spending will exceed income in 2010.

But if you were to adopt the Conrad amendment, ''spending exceeding income plus interest'' would not be changed one nickel. And the year 2026 event would not change at all. So what is the purpose of this? I believe it is to attempt to frustrate our ability to give back to the American people $1.6 trillion, which I have just alluded to and have shown you in the previous chart, which ought to be done.

Tomorrow, we will have another opportunity to discuss this. I am not clamoring to adopt, unless the Senate really wants to, the Sessions-Domenici amendment, but it was actually passed by the House by an overwhelming margin. It permits you to reform Medicare. It permits you to do the proposal that we want to do with reference to prescription drugs. It permits that to occur. And if, in fact, the reform is within that Medicare fund, it is OK to be there. Under the Conrad amendment you could do neither of those things with this trust fund, which I do not think the Senate really wants to do. We will have a chance to refer to it further tomorrow.

I point out that the amendment Senator CONRAD has offered is not the same as the one he offered in the last session. Under his current amendment, the Part A surpluses cannot be reduced for any reason—even for additional Part A spending.

At least last year, Senator CONRAD would allow Part A surpluses to be spent on Part A Medicare expenses.

So while President Bush has promised that Medicare funds will be spent only for Medicare, Senator CONRAD doesn't want Medicare funds spent at all, even for Medicare.

This amendment will also encourage more of the accounting gimmicks we have seen in the past. We are all aware that the current Part A surpluses were generated because we shifted home health services from Part A to Part B back in 1997.

This change did nothing to improve the overall state of the Medicare program—it just made Part A look better.

So let's not be lulled into a false state of complacency in thinking that playing political games with the Medicare trust fund will in any way protect Medicare.

Only reform of the program can truly protect Medicare for future generations.

Senator CONRAD claims that his amendment is the fiscally responsible thing to do. But in fact, the fiscally responsible thing to do is to reform the entire Medicare program.

Senator CONRAD'S amendment will set back the cause of reform by splitting Medicare permanently in two.

If Senators truly care about Medicare reform and they believe, as I do, that the time has come to take serious action to save this program for the future, then they should not support Senator CONRAD'S amendment.

Once again, I say to my friend, and ranking member, Senator CONRAD, a point of order will be made tomorrow in a timely manner. Obviously, we will do that when somebody is around on the other side of the aisle so they can ask that it be waived and we can vote on it. There will be a 60-vote requirement.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GRASSLEY). Without objection, it is so ordered.

AMENDMENT NO. 16

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 16, which is at the desk.

The PRESIDING OFFICER. Without objection, the Senator may proceed with her amendment. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself, Mr. KERRY, Mr. STEVENS, and Mr. KENNEDY, proposes an amendment numbered 16.

Ms. COLLINS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for family fishermen)

At the appropriate place insert the following:

SEC. ___. FAMILY FISHERMEN.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

''(7A) 'commercial fishing operation' includes—

''(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products;

''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A); and

''(C) the transporting by vessel of a passenger for hire (as defined in section 2101 of title 46) who is engaged in recreational fishing;

''(7B) 'commercial fishing vessel' means a vessel used by a fisherman to carry out a commercial fishing operation;'';

(2) by inserting after paragraph (19) the following:

''(19A) 'family fisherman' means—

''(A) an individual or individual and spouse engaged in a commercial fishing operation

(including aquaculture for purposes of chapter 12)—

''(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

''(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

''(B) a corporation or partnership—

''(i) in which more than 50 percent of the outstanding stock or equity is held by—

''(I) 1 family that conducts the commercial fishing operation; or

''(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

''(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

''(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

''(III) if such corporation issues stock, such stock is not publicly traded;''; and

(3) by inserting after paragraph (19A) the following:

''(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;''.

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting ''or family fisherman'' after ''family farmer''.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting ''**OR FISHERMAN**'' after ''**FAMILY FARMER**'';

(2) in section 1201, by adding at the end the following:

''(e)(1) Notwithstanding any other provision of law, for purposes of this subsection, a guarantor of a claim of a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.

''(2) For purposes of a claim that arises from the ownership or operation of a commercial fishing operation, a co-maker of a loan made by a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.'';

(3) in section 1203, by inserting ''or commercial fishing operation'' after ''farm'';

(4) in section 1206, by striking ''if the property is farmland or farm equipment'' and inserting ''if the property is farmland, farm equipment, or property of a commercial fishing operation (including a commercial fishing vessel)''; and

(5) by adding at the end the following:

''§ 1232. Additional provisions relating to family fishermen

''(a)(1) Notwithstanding any other provision of law, except as provided in subsection (c), with respect to any commercial fishing vessel of a family fisherman, the debts of that family fisherman shall be treated in the manner prescribed in paragraph (2).

''(2)(A) For purposes of this chapter, a claim for a lien described in subsection (b) for a commercial fishing vessel of a family fisherman that could, but for this subsection, be subject to a lien under otherwise applicable maritime law, shall be treated as an unsecured claim.

''(B) Subparagraph (A) applies to a claim for a lien resulting from a debt of a family fisherman incurred on or after the date of enactment of this chapter.

''(b) A lien described in this subsection is—

''(1) a maritime lien under subchapter III of chapter 313 of title 46 without regard to whether that lien is recorded under section 31343 of title 46; or

''(2) a lien under applicable State law (or the law of a political subdivision thereof).

''(c) Subsection (a) shall not apply to—

''(1) a claim made by a member of a crew or a seaman including a claim made for—

''(A) wages, maintenance, or cure; or

''(B) personal injury; or

''(2) a preferred ship mortgage that has been perfected under subchapter II of chapter 313 of title 46.

''(d) For purposes of this chapter, a mortgage described in subsection (c)(2) shall be treated as a secured claim.''.

(d) CLERICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

''12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income ..... 1201''.

(2) TABLE OF SECTIONS.—The table of sections for chapter 12 of title 11, United States Code, is amended by adding at the end the following new item:

''1232. Additional provisions relating to family fishermen.''.

(e) Applicability.—

Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.).

Amend the table of contents accordingly.

Ms. COLLINS. I thank the Presiding Officer for replacing me as the Chair so I could offer the amendment to the bill he is managing so effectively on the Senate floor. I appreciate his courtesy.

I rise to offer an amendment to the Bankruptcy Reform Act of 2001. I am very pleased to be joined by Senators KERRY, STEVENS, and KENNEDY. Our amendment provides the family fisherman with the same kind of protections and terms as granted family farmers under chapter 12 of our bankruptcy laws. It was passed by the Senate last year as part of bankruptcy reform legislation, but I rise, once again, to briefly take the opportunity to explain the amendment and its importance to commercial fishermen in coastal States.

I do not condone those who use the bankruptcy code as a tool to cure their self-induced financial woes. I have supported and will continue to support reasonable reforms to the bankruptcy laws that ensure the responsible use of its provisions.

All consumers bear the burden of irresponsible debtors who abuse the system. At the same time, there are those who legitimately need the protection of our bankruptcy laws and who do not abuse it. I commend the Presiding Officer for striking the right balance in the legislation he has brought before the Senate.

I believe bankruptcy should remain a tool of last resort for those in severe financial distress. As those familiar with the bankruptcy code know, however, a business reorganization in bankruptcy is very different from a business dissolution. Reorganization embodies the hope that by providing a business with some relief and allowing debt to be adjusted, the business will have the opportunity to get back on sound financial footing and thrive. In that vein, chapter 12 was added to the bankruptcy code in 1986 by the Presiding Officer, the distinguished Senator from Iowa, to provide for bankruptcy reorganization of the family farm and to give family farmers ''a fighting chance to reorganize their debts and keep their lands.''

To provide the fighting chance envisioned by the authors of chapter 12, Congress provided a distinctive set of rules to govern the reorganization of a family farm. In essence, chapter 12 recognized the unique situation of family-owned businesses and the enormous value of the family farmer to the American economy and to our American heritage. Chapter 12 provides, for example, significant advantages over the standard chapter 13 proceeding, including a longer time period in which to file a plan for relief, greater flexibility for the debtor to modify the debts secured by their assets, and the alteration of the statutory time limit to repay secured debt. The chapter 12 debtor is also given the freedom to sell off parts of his or her property as part of a reorganization plan.

As the Chair well knows, chapter 12 has been a considerable success in the farm community. According to a recent University of Iowa study, 74 percent of family farmers who file chapter 12 bankruptcy are still farming, and 61 percent of the farmers who went through chapter 12 believe the law was very helpful in getting them back on their feet.

Recognizing the effectiveness of this law for farmers, I have supported making chapter 12 a permanent part of the bankruptcy code. Now I am proposing to extend its protections to the family fisherman as well as the family farmer.

In the State of Maine, fishing is a vital part of our economy and our way of life. The commercial fishing industry is made up of proud and fiercely independent individuals whose goal is to simply preserve their business, family income, and community. My legislation would afford fishermen the same protection of business reorganization as is provided to family farmers.

There are many similarities between the family farmer and the fisherman.

Like the family farmer, the fisherman should be valued not only for his contributions to our economy and to our food supply, but also for his contributions to our heritage and our precious way of life. Like farmers, fishermen face perennial threats from nature and the elements, as well as from the laws and regulations that, unfortunately, can at times threaten their very existence.

Like family farmers, fishermen are not seeking special treatment or a handout from the Federal Government. They seek only the fighting chance to remain afloat so they can continue their way of life.

Recently I attended the Maine Fishermen's Forum, an annual event which provides the opportunity for policymakers to meet and discuss issues affecting our fishing communities. I spoke with many fishermen, and they told me they believe they need and deserve the protections granted under the bankruptcy code to others who face similar, often unavoidable problems. Fishermen should not be denied the special bankruptcy protections accorded to farmers solely because they harvest the sea and not the land.

Our amendment tracks closely how chapter 12 applies to family farmers. Its protections are restricted to those fishermen with a regular income who have total debt of less than $1.5 million, most of which, 80 percent, must stem from commercial fishing. Moreover, families must rely on fishing income for these provisions to apply.

The same protections and flexibility we grant to farmers should also be granted to fishermen. By making this modest but important change to our bankruptcy laws, we will express our respect for the business of fishing and our shared wish that this unique way of life, which so embodies the State of Maine, should continue.

I ask that at the appropriate time my amendment be considered. I am hopeful it will be accepted by the Presiding Officer and the committee's ranking majority member, and that it will be adopted as we continue the debate on the bankruptcy legislation.

Mr. KERRY. Mr. President, I thank Senator SUSAN COLLINS for her work in developing this important amendment, which will extend chapter 12 bankruptcy protections to our family fishermen. I believe we should do everything possible to protect and preserve the small family-owned fishing businesses in this country.

In 1999, American fishermen harvested 9.3 billion pounds of seafood valued at $3.5 billion dockside. The commercial marine fishing industry contributed more than $27 billion to the Gross National Product in 1999. In 1999, Massachusetts fishermen landed more than 198,000 pounds of seafood worth more than $260 million. The fishing port of New Bedford, Massachusetts ranks second nationally in terms of the value of the fishery landings in 1999 with nearly $130 million in seafood landed.

These numbers sound great, but small, family-owned fishing businesses are in serious trouble. In Gloucester, America's oldest fishing port, landings declined by 9 percent in 1999 to just less than $26 million. This once proud fishing community, along with several other New England communities that borders the Gulf of Maine, have been rocked by the dramatic decline in inshore cod stocks. Gulf of Maine fishermen are feeling the pain caused by low trip limits and closed fishing areas. Massachusetts Bay, the prime fishing grounds for much of the inshore fleet, is currently closed six months of the year to allow the cod fish to rebuild. Think of the effect that closing a family farm for six months each year would have on its profitability.

Decreasing fish stocks coupled with severe environmental factors such as coastal pollution and warmer oceans with changing currents has resulted in severely depleted fish stocks around the country. We are making progress in rebuilding stocks, however, the cost of this progress has been a steep decline in the amount of fishing allowed in Georges Bank and the Gulf of Maine. This in turn has made it much more difficult for fishermen in Massachusetts and Maine to maintain profitable businesses. That is why the Collins amendment is so important. It will ensure that fishermen have the flexibility under chapter 12 of the bankruptcy code to wait out the rebuilding of our commercial fish stocks without back tracking on our conservation gains to date.

We are making progress rebuilding our fish stocks, but the social and economic costs have been enormous. I strongly believe we must do everything we can to preserve the rich New England fishing heritage in Massachusetts without wiping out the fiercely independent small-boat fishermen.

In their annual report to the Congress released last month on the health of our Nation's fisheries, the National Marine Fisheries Service reported that there was no overfishing in 210 fish stocks in 2000 as compared to 159 stocks in 1999, a significant improvement. This means that we have reduced fishing pressure on many stocks to the point where we can continue harvesting on a sustainable basis. Additionally, the number of stocks that are fully rebuilt has increased to 145 in 2000 from 122 stocks in 1999. Another significant improvement. My point is that we are making real progress, however, the temptation will always exist to forgo what is in the long-term best interest of our fisheries, to relieve some of the short term pains that the fishing industry is going through.

The same protections and flexibility afforded the farming community should be made available to family fishermen. By adopting this modest but important change to the bankruptcy laws, we will not only preserve and protect a very important industry but a cherished way of life as well.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. CLINTON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

AMENDMENT NO. 29, AS MODIFIED

Mrs. CLINTON. Madam President, I will speak to one of the pending amendments. I rise today to offer my support for a pending amendment offered by Senator CONRAD, the Social Security and Medicare Off-Budget Lockbox Act of 2001.

This legislation would protect Social Security and Medicare trust funds from being raided to pay for tax cuts or programs and would ensure our continuing commitment of the surpluses to debt reduction. I am pleased that similar legislation has had broad, bipartisan support in both the Senate and the House over the past years, as I believe it is the responsible step that we should take to ensure these vital benefits remain available, with the paying down of the debt, with assuring that we have affordable tax cuts, and with the investments that we need to make to ensure our country is stronger in the future.

Now, I know that the chairman of the Budget Committee, for whom I have the greatest respect, suggests this amendment is more of a scare tactic than a real effort to protect Medicare and Social Security. But I have to respectfully disagree. This amendment is nearly identical to the amendment for which 60 Senators, including 16 of our colleagues on the other side of the aisle, voted in favor of last year as an amendment to the Labor/HHS appropriations bill, but it was unfortunately dropped in conference. It is important to raise it again now because, much to my disappointment, President Bush's budget blueprint does appear to raid the Social Security and Medicare trust funds to pay for his tax cut proposal.

Over the past several weeks, members of the administration have come before the Budget Committee, on which I serve, and argued that President Bush's blueprint protects the Social Security and Medicare trust funds. But you can look at the numbers and see that is not the case. A table in the blueprint entitled ''The President's 10-year Plan,'' for example, refers to a contingency reserve of over $840 billion, of which over $500 billion of that comes from the Medicare trust fund.

Since other parts of the administration's budget seriously underfund many important priorities, such as a

prescription drug benefit for our seniors on Medicare, national defense, investments in our schools and our children, our teachers, and other significant areas for which there is broad bipartisan support, it also proposes hundreds of billions of dollars in unspecified cuts across programs. And there isn't any mystery. There can't be any mystery that if you combine a very large tax cut with underfunding important programs and leaving out many others, then there will not be the money in this reserve, and it is money taken out of the Medicare trust fund that will be available to cover the priorities that we would determine are in our national interest.

During the time of projected surpluses, I have to ask, is this really the choice that we want to be making? Madam President, I know most New Yorkers would agree that it would be both unfair and wrong to shortchange either our seniors or our children when it comes to prescription drug benefits, or investments in smaller class sizes, school construction, and other important programs that will improve the quality of education.

The real choice we face should be between a very large tax cut from which millions of working Americans would receive little to no tax relief and the three priorities which I think we can agree on in this body—a priority for affordable tax cuts, a priority to continue to pay down the debt, and a priority of the kind of investment that we need to make.

For example, I believe we should invest in a real prescription drug benefit. The President's immediate helping hand proposal denies eligibility for prescription drugs to nearly 25 million Medicare beneficiaries, most of whom today lack affordable, dependable prescription drug coverage.

Republican and Democratic Governors have also raised concerns with this proposal, noting that it fails to meet the immediate prescription drug needs of their elderly and disabled residents.

The challenge should be not deciding to shortchange our seniors on prescription drugs in order to give a very large tax cut to people at the upper end of the income scale, but it should be between how do we keep all of our priorities in order and how do we provide prudent tax relief, continue to pay down the debt, and invest in what will make us a healthier, better-educated, stronger Nation.

I believe Senator CONRAD's amendment to lock away the Social Security and Medicare trust funds sets the right balance. It clearly takes off budget what should be off budget. It should not be used for a contingency, for tax cuts, or for spending; it should be used for what it was intended to be used for: to meet the Social Security and Medicare needs of our seniors.

I ask that I be added as a cosponsor, and I urge my colleagues, as they did once before on an appropriations measure, to ensure the solvency of the important programs, such as Medicare, and to ensure the provision of a prescription drug benefit to our seniors on Medicare, and to deal with the other important priorities that we face.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 39

Mr. LEAHY. Madam President, I ask unanimous consent it be in order to ask for the yeas and nays on the Kennedy-Jeffords amendment on the bankruptcy bill, amendment number 39, with the vote to occur at whatever appropriate time the votes are being stacked.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 16

Mr. LEAHY. Madam President, I commend the Presiding Officer for her amendment to protect family fishermen. I know the distinguished Senator from Massachusetts, Mr. KERRY, also strongly supports it. It is the type of bipartisan amendment that can be agreed to on this side of the aisle.

I have been checking around, and I do not find anyone over here who disagrees with it. I hope on the other side it can also be agreed to. If so, that is one we can move quickly to accept.

I want the distinguished Presiding Officer to know I checked on this side and there are no objections to her amendment, which is a good one.

However, I am disappointed that my good friend, the majority leader, has filed cloture on this bill. The Democratic leader, Senator DASCHLE, Senator REID, and I have been working to get amendments offered, filed, agreed to, if possible, and modified, if needed. We presented a good-faith list of about 15 amendments on our side of the aisle as of last Friday. We are awaiting a response. I know a number of amendments have been filed by Republican Senators, and we are trying to quickly clear them on our side if we can. I will continue to work to move forward on this.

AMENDMENT NO. 41

Mr. LEAHY. Mr. President, I ask unanimous consent that it be in order to send to the desk an amendment on the prohibition and disclosure of the identity of minor children.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 41.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To protect the identity of minor children in bankruptcy proceedings)

On page 124, between lines 10 and 11, insert the following:

SEC. 233. PROHIBITION ON DISCLOSURE OF IDENTITY OF MINOR CHILDREN.

(a) PROHIBITION.—Chapter 1 of title 11, United States Code, is amended by adding after section 111, as added by this Act, the following:

"§ 112. Prohibition on disclosure of identity of minor children

''In a case under this title, the debtor may be required to provide information regarding a minor child involved in matters under this title, but may not be required to disclose in the public records in the case the name of such minor child.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''112. Prohibition on disclosure of identity of minor children.''.

Mr. LEAHY. Madam President, this is an amendment to protect the identity of minor children in bankruptcy court records. My amendment permits a debtor to withhold the name of a minor child in the public records of the bankruptcy case.

I submit this out of a sense of child safety. There is an unintended loophole, as the bill is written, in child safety. Sometimes bankruptcies occur when there have been a great deal of problems between parents. With that, nobody should know the name of the minor children.

The closing loophole does not restrict the necessary flow of information regarding a debtor's financial records. The House of Representatives adopted a similar amendment authored by Congressman MARK GREEN during its debate on bankruptcy reform legislation.

The amendment is a modest but important first step to protecting personal privacy and preventing criminal activity through the unnecessary disclosure of personal information in the public domain.

When individuals file for bankruptcy, of course, they are required to disclose information regarding themselves and also their dependents. Most of this information is vital to ensuring the integrity of the bankruptcy process, but if you look at these forms, you realize a lot of this information is very personal, very detailed.

Indeed, bankruptcy records contain all kinds of highly sensitive personal, financial, and medical information. I didn't realize how much information was in there while preparing for the bill. I was amazed at the amount of personal, financial, and medical information. More and more, Federal courts are making these court records that contain the very highly sensitive personal, financial, and medical information available for all to see, without

any privacy safeguards, and are available on the Internet.

Each Member can go on the Internet and get medical, personal, and privacy records on bankruptcy debtors. For example, schedule 1 has a document entitled ''The Current Income of Individual Debtors'' that requires a debtor to list his or her dependents' names, ages, and relationship to the debtor. Some of this information is very important to creditors. I don't have any question about that.

It is also the type of information that some dangerous people could use to seek out and contact children. We have seen predators of children who have sought this information over the Internet. Any parent, any grandparent, or any Senator should worry about someone getting this information on children. My amendment simply protects minor children to unnecessary exposure from harm.

The chairman of the Senate Judiciary Committee, Senator HATCH, has agreed to future hearings in the Judiciary Committee to consider the issue of personal information in paper and electronic court records and other governmental records. The manner in which all three branches of the Federal Government, Federal agencies, the Congress, and the judiciary protect the privacy and personal information that Americans are required to divulge is an important area that needs our attention.

Earlier, we had a Leahy-Hatch amendment regarding protection of customer databases and consumer lists to prevent future ToySmart.com cases. We created omnibus bankruptcy proceedings as part of that Leahy-Hatch amendment, the first consumer privacy advocate in consumer law. Working together, we have proven that Republicans and Democrats can come together in commonsense matters.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. I thank the Chair. I thank my friend from Iowa.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FITZGERALD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. COLLINS. Mr. President, I thank the Senator from Vermont for his kind words about the amendment I offered to extend the protections of chapter 12 of our bankruptcy code to our fishermen so that a fisherman can be treated the same way as a farmer is treated. I appreciate his efforts to clear the amendment, which is a bipartisan amendment, on his side of the aisle.

I also commend the Senator from Vermont for the amendment he just proposed that safeguards the names of minor children in bankruptcy proceedings.

Last weekend, I had a discussion with a member of my staff who is responsible for Cumberland and York Counties. He told me of our office's attempts to assist women who are legally establishing new identities in order to avoid being pursued by a violent exspouse or former boyfriend. He told me the Social Security Administration, for example, is very helpful once these women have gone to court and legally changed their names for these very good reasons and helping them to get new Social Security numbers. But he mentioned to me that oftentimes the violent former spouse or boyfriend pursues these women using other public records. For example, when they get a new driver's license in the State of Maine, Maine has the requirement that the State where they previously held a driver's license be notified. That creates a paper trail by which the former spouse can pursue the woman who is trying to get a fresh start for herself.

It occurs to me while listening to the comments of the Senator from Vermont that the bankruptcy proceedings could also be a way that this information is disclosed, and that in cases where parental rights have been terminated this would be a means of a former spouse tracing the children to which he no longer has any parental rights.

There are a number of other examples where children can be preyed on by predators who gain access to this information. But I wanted to share the experience that I had this last weekend with my staff's efforts to assist abused women in starting new lives through legally assuming a new identity.

I commend the Senator from Vermont for his efforts. I look forward to working further with him on this issue.

Thank you, Mr. President. I yield the floor.

Mr. LEAHY. Mr. President, I thank my colleague and neighbor from Maine. I appreciate her willingness to work together on this.

The Senator from Iowa is off the floor at the moment. He is in a meeting. But while we wait for the Senator from Iowa, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 27, AS MODIFIED

Mr. LEAHY. Mr. President, I ask unanimous consent that it be in order to modify, on behalf of the Senator from California, Senator FEINSTEIN, her amendment. I send that amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment (No. 27), as modified, is as follows:

(Purpose: To make an amendment with respect to extensions of credit to underage consumers)

At the end of Title XIII, add the following:

SEC. 1311. ISSUANCE OF CREDIT CARDS TO UNDERAGE CONSUMERS.

(a) APPLICATIONS BY UNDERAGE CONSUMERS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(8) APPLICATIONS FROM UNDERAGE OBLIGORS.—

''(A) PROHIBITION ON ISSUANCE.—Except in response to a written request or application to the card issuer that meets the requirements of subparagraph (B), a card issuer may not—

''(i) issue a credit card account under an open end consumer credit plan to, or establish such an account on behalf of, an obligor who has not attained the age of 21, if the total amount of credit extended to the obligor under that account exceeds $2,500 (which amount shall be adjusted annually by the Board to account for any increase in the Consumer Price Index); or

''(ii) increase the total amount of credit authorized to be extended under that account to an obligor described in clause (i) to an amount equal to more than $2,500.

''(B) EXCEPTIONS.—Clauses (i) and (ii) of subparagraph (A) do not apply if the issuer requires, in connection with the issuance or establishment of the account or the increase, as applicable—

''(i) the signature of a parent or guardian of that obligor indicating joint liability for debts incurred in connection with the account before the obligor attains the age of 21; or

''(ii) submission by the obligor of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account.

''(C) NOTIFICATION.—A card issuer of a credit card account under an open end consumer credit plan shall notify any obligor who has not attained the age of 21 that the obligor is not eligible for an extension of credit in connection with the account unless the requirements of this paragraph are met.

''(D) LIMIT ON ENFORCEMENT.—A card issuer may not collect or otherwise enforce a debt arising from a credit card account under an open end consumer credit plan if the obligor had not attained the age of 21 at the time the debt was incurred, unless the requirements of this paragraph have been met with respect to that obligor.

''(9) PARENTAL APPROVAL REQUIRED TO INCREASE CREDIT LINES FOR ACCOUNTS FOR WHICH PARENT IS JOINTLY LIABLE.—In addition to the requirements of paragraph (8), no increase may be made in the amount of credit authorized to be extended under a credit card account under an open end credit plan for which a parent or guardian of the obligor has joint liability for debts incurred in connection with the account before the obligor attains the age of 21, unless the parent or guardian of the obligor approves, in writing, and assumes joint liability for, such increase.''.

(b) REGULATORY AUTHORITY.—The Board of Governors of the Federal Reserve System may issue such rules or publish such model forms as it considers necessary to carry out paragraphs (8) and (9) of section 127(c) of the Truth in Lending Act, as added by this section.

(c) EFFECTIVE DATE.—Paragraphs (8) and (9) of section 127(c) of the Truth in Lending Act, as added by this section, shall apply to the issuance of credit card accounts under open end consumer credit plans, and any increase of the amount of credit authorized to be extended thereunder, as described in those paragraphs, on and after the date of enactment of this Act.

Mr. LEAHY. Mr. President, I do not have further matters. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I have some unanimous consent requests that the leader has asked me to make.

ORDER FOR VOTES ON AMENDMENTS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that at 11 a.m. on Tuesday, as under the order, the Senate proceed to a vote in relation to the following amendments, and further, no amendments be ordered to the amendments prior to the votes: the Feinstein amendment No. 27, as modified, and the Kennedy amendment No. 39.

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

MORNING BUSINESS

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

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

INTERNET TAX MORATORIUM AND EQUITY ACT

Mr. GRAHAM. Mr. President, it is an unfortunate irony that the important things in life are often left unsaid. It may surprise some to know that, of all things, congressional legislation cannot escape this truism.

In fact, the most important piece of education legislation Congress considers this year will not mention schools or students. The most important law enforcement legislation we consider this year will not recognize the officers that safeguard our streets. And, the most important piece of emergency services legislation we address this year will not reference the firefighters and paramedics who keep our communities safe.

In 1998, Congress passed the Internet Tax Freedom Act. That bill imposed a three year moratorium on specific State taxes applicable to the Internet. The legislation didn't affect the States' ability to impose sales tax on Internet purchases, nor did it fix the unfair advantage ''e-tailers'' currently have over their main street competitors with respect to their responsibility to collect sales and use taxes.

As a result of two Supreme Court rulings, a State is prohibited from requiring out-of-State retailers from collecting sales tax on purchases made by its residents if the business has no presence in the State. The sales tax still applies, it just has to be collected directly from the purchaser. For a variety of reasons, very little of this tax is ever collected.

The Internet Tax Freedom Act created the Advisory Commission on Electronic Commerce which was supposed to come up with a solution to this problem. Instead the Commission was hijacked by a small group who opted to demagogue this issue to further their ''anti-tax'' agenda. The result was a year-long study of an issue with little in the form of useful recommendations.

The game plan of the forces supporting the status quo is clear: delay, delay, delay. Keep extending the moratorium until there is a sufficiently large political constituency to permanently block the collection of sales taxes on purchases made over the Internet.

This is not a hidden agenda. Governor Gilmore, Chairman of the Advisory Commission on Electronic Commerce stated it clearly when he said that ''I believe America should ban sales and use taxes on the Internet permanently, for all time. If we secure tax freedom on the Internet through 2006, tax freedom on the Internet will become an entitlement for the American people and a political inevitability. No tax collector will be welcome on the Internet after 2006.''

Let me be clear: this is not about whether purchases made over the Internet are subject to sales tax. They already are. The question is whether Internet sellers should have the same responsibility to collect the sales tax as their Main Street competitors.

If we answer this question with a ''no,'' funding for education, law enforcement and emergency services will suffer. Why? Because States have the fundamental responsibility of financing public education in our country. Patrolling our streets, safeguarding the health and safety of our citizens—these tasks could not be accomplished without our State and local governments.

For most States, sales tax revenue is the primary means by which States fulfill these responsibilities. Because many States rely on sales taxes for their general revenue, the equation is simple—no collection of sales tax on the Internet means less money for new schools, police officers, and rapid response equipment. Six States—Florida, Nevada, South Dakota, Tennessee, Texas and Washington rely on sales taxes for more than half of their total tax revenue.

According to the General Accounting Office, by 2003 losses to State and local government revenues from uncollected sales taxes on Internet sales could climb as high as $12.5 billion. Florida's share of that lost revenue could be as much as $1 billion. When asked why he robbed banks, Willie Sutton replied, ''that's where the money is.'' Today, the money is increasingly on the Internet.

There is another reason to fix this issue: fairness. No one would seriously consider a proposal that barred State and local governments from collecting sales and use taxes from retailers who operate in green buildings. That would be unfair to those businesses that aren't located in green buildings. Yet that is fundamentally what proponents of the status quo argue for Internet retailers.

Our position should be clear: no more delays. No more moratoriums until Congress agrees to a process whereby States are directed to simplify their sales tax systems in exchange for the authority they need to require remote sellers to collect their sales taxes.

The legislation introduced last Friday takes the first positive step in this direction. That bill extends the current moratorium on Internet access taxes and multiple or discriminatory taxes on the Internet, a prohibition that virtually all agree should be imposed.

More importantly, however, it establishes a process whereby States can cooperatively unify and simplify their sales and use tax systems. Sales tax laws must be made significantly more uniform across the states and the administration of the tax must be substantially overhauled and simplified. The goal of this legislation is to develop a simple, uniform and fair system of sales tax collection. It will reduce the burden on remote sellers while protecting State and local sovereignty.

Once States have adopted this simplified system, they would then have the authority to require remote sellers to collect and remit sales and use taxes to the State.

Previous attempts to require remote sellers to collect sales and use taxes have been criticized on the grounds that it was unreasonable to require businesses to keep track of the nearly 7,500 separate jurisdictions levying sales and use taxes. This bill addresses that criticism by requiring the states to dramatically simplify their sales and use tax systems by establishing uniform definitions and fewer rates.

The streamlined sales and use tax system envisioned by this legislation follows the guidance offered by the Advisory Commission on Electronic Commerce. The attributes of this streamlined system include: a centralized, one-stop, multi-state registration system for sellers; uniform definitions for goods or services that would be included in the tax base; uniform and simple rules for attributing transactions to particular taxing jurisdictions; uniform rules for the designation of and identification of purchasers exempt from tax; uniform certification procedures for software that sellers may rely on to determine State and

local taxes; uniform returns and remittance forms; consistent electronic filing and remittance methods; State administration of State and local sales taxes; uniform audit procedures; reasonable compensation for tax collection by remote sellers; exemption for remote sellers with less than $5 million in annual sales for the previous year; appropriate protections for consumer privacy; and such other features that a member states deem warranted to promote simplicity.

Critics of this legislation argue that it is anti-technology, and that the Internet must be protected from this threat. That is not true. The sponsors of this bill yield to no one in their support and enthusiasm for a vibrant information technology industry. But that support does not necessitate special breaks for companies doing business over the Internet.

This legislation is more appropriately characterized with one word: fairness. It promotes fair treatment for all retailers. In addition it protects States' abilities to collect the resources necessary to make the education investments that will pave the way for the next technological breakthrough—the next Internet. I hope my colleagues will join the sponsors of this bill and support this approach.

ADDITIONAL STATEMENTS

TRIBUTE TO JOAN FINNEY

• Mr. BROWNBACK. Mr. President, I rise to pay tribute to the first woman ever elected governor of the great State of Kansas, and my good friend, Joan Finney.

Unfortunately, Governor Finney is currently in a serious battle with liver cancer.

Governor Finney served 16 years as State treasurer before becoming the first woman elected to the State's highest office, where she served as governor from 1991 through 1994. She did not seek a second term.

A resolution adopted by the State Democratic party describes her as someone who ''gave tirelessly and selflessly to the people of Kansas, dedicating her energy, optimism, openness and faith to serving the people of Kansas.''

I had the honor and privilege to serve with Governor Finney when I was Secretary of Agriculture for the State of Kansas.

It was a true honor to serve with someone who believed so much in public service. Particularly in a country that is marked by a growing skepticism about public service in general, and some of our public servants in particular, Governor Finney was a breath of fresh air in our capitol.

She embodied bipartisanship in so many ways; often working in a bipartisan way to advance the causes for which she so deeply believed. Her service to the State of Kansas will not soon be forgotten.

The Democrats at their annual meeting in Topeka this year adopted a resolution describing Governor Finney as ''truly one of Kansas' most adored native daughters'', and she is.

I extend my best wishes to Governor Finney as she faces this difficult period in her life. She and her husband, Spencer, need our prayers, they already have mine.•

DR. ROBERT GODDARD

• Mr. SARBANES. Mr. President, today I would like to recognize the contributions of a man who helped pave the way for the American space flight program. Seventy-five years ago, on a cool morning in Auburn, MA, Dr. Goddard and his small group of students and assistants huddled around a nine-pound, awkward looking structure and began the first of many, now familiar countdowns. Seconds later the small vehicle rose forty-one feet into the air and fell to the ground amid the cheers of those below. The age of modern rocketry was begun. Today, Doctor Goddard is recognized around the world as the father of modern rocket propulsion.

Goddard's dreams began, like thousands of other young children, with stories from his childhood. He was born in 1882, in Worcester, MA, as the only child of a bookkeeper. In 1899, at age 17, young Robert dozed off in a cherry tree after having read H.G. Wells' War of the Worlds. He dreamt he had ascended to Mars in a machine driven by centrifugal force. When he awoke he devoted his life to making his dream of spaceflight a reality.

His aspiration of devising a system for propelling men away from the Earth led him to pursue an education in physics. In 1908, he earned his Bachelor's of Science degree from Worcester Polytechnic Institute. He went on to receive his Master's in Physics from Clark University in 1910 and his doctorate in 1911. His early efforts in rocket propulsion mathematically explored various ideas including solar power, electric ion propulsion, and explosive firing from a large cannon as narrated in Jules Verne's classic 1865 novel From the Earth to the Moon. His work eventually rejected all of these ideas as for lack of efficiency or power.

In 1914, Doctor Goddard patented a system for using liquid propellant to lift rockets into the cosmos. That same year he also received a patent for a multiple stage system. Goddard devoted his life to the ideas and concepts of rocket propulsion that he first demonstrated in 1926. Forty-three years later these two patents were put into practice to propel Neil Armstrong and his fellow astronauts to their historic moon landing in 1969.

From 1920 to 1929 his work was sponsored primarily by the Smithsonian Institution. During this period, Goddard wrote four unsolicited reports in which he revealed his visions of space exploration. He foretold of manned vehicles exploring the moon and the planets, solar power, ion propulsion, and even journeys to other star systems. Goddard requested that these reports be kept confidential because these lofty concepts were completely unacceptable to the scientific community of the 1920s. In 1932, in a letter to H.G. Wells, Goddard wrote, ''[A]iming at the stars, both literally and figuratively, is a problem to occupy generations, so that no matter how much progress one makes, there is always the thrill of just beginning. . . .'' His visionary ideas were the spark that ignited the passions of hundreds of young men and women to transform his idealistic dreams into reality.

But he wasn't just a dreamer. His practical solutions led to 214 total patents. In the early 1920s, Goddard began a series of rocket tests of which the 1926 launch was the hallmark. One of the key theories proven by Goddard's experimentation was that a rocket will function in the vacuum of space. Before Goddard's meticulous tests, it was widely believed in the scientific community that rockets moved by pushing against the air. Goddard proved that rockets functioned on the reaction principle and that they would perform in a vacuum. On this foundation, the path was laid for scientists and engineers to build on Doctor Goddard's work and lead the United States to the forefront of the space race.

At his namesake, the Goddard Space Flight Center, in Greenbelt, MD, the tremendous NASA scientists and engineers recently celebrated forty years of continuing Dr. Goddard's legacy of discovery and exploration. So, on this day, we should remember the efforts of this courageous visionary and his successors as the finest example of American perseverance and ingenuity. Without Robert Goddard's enterprise, our race to the stars would have faltered. His historic launch is truly one of the great mileposts on the road to the modern space age.•

ELIAS ''SKIP'' ASHOOH

• Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Skip Ashooh, a dynamic and inspiring entrepreneur and the 47th recipient of the prestigous Citizen of the Year Award from the Greater Manchester Chamber of Commerce.

Skip, a native of the Queen City was honored with this award where he was applauded by more than 650 enthusiastic business and community leaders who gathered together to honor this outstanding citizen. Skip was surprised to see his exuberant mother and six siblings who reunited to share in this joyous occasion.

Upon completion of his bachelors degree from Saint Anselm College in 1973, Skip pursued a career as a junior high social studies teacher in Manchester where he shared his love of American history with his students.

After many years of teaching, Skip launched a new career as a licensed

stock broker. Today, Skip heads his own successful financial services firm in downtown Manchester.

Through community service, Skip has demonstrated his tireless dedication and commitment as an active member of numerous civic and community boards. His most significant contribution to Manchester has been as an ardent supporter and advocate of the Manchester Civic Center. Skip should take great pride in the economic revival of downtown Manchester. I look forward to the opening face-off of the Monarchs when the Manchester Civic Center comes to life in November of this year.

As Winston Churchill once said, ''We make a living by what we get. We make a life by what we give.''

Skip cares deeply about Manchester and the State of New Hampshire and is an articulate and enthusiastic advocate for maintaining our place as a leader in technology and in quality of life. For his deep commitment to our state and for the positive results he has achieved in support of community and economic prosperity, it is my pleasure to honor him today and represent him in the United States Senate.●

IN MEMORY OF GRANT BUNTROCK

● Mr. JOHNSON. Mr. President, I rise today to honor the achievements of a true friend of American agriculture, Grant B. Buntrock, a native of my home State of South Dakota. Grant died at his home on Friday, March 9, 2001.

Grant made his mark on American agriculture all throughout his 38 years of service. He was honored to be selected by President Clinton as the administrator of the Department of Agriculture's Agricultural Stabilization and Conservation Service, ASCS. Through reorganization, he later became the first administrator of the Farm Service Agency, where he served until his retirement in 1997.

His training to be the agency's administrator came through his many ASCS positions. From 1977 through 1980, he served as Assistant Deputy Administrator, State and County Operations, DASCO. In 1981, he became the director of the Cotton, Grain and Rice Price Support Division, where he administered all support programs. His other assignments included Director, Price Support and Loan Division and DASCO staff assistant, as well as assignments to the Programs Operations Division and the Bin Storage Division.

But perhaps the most important position of all was his tenure as a program specialist in the Brown County ASCS office and his position as county office manager in the Day County ASCS office. He was on the front line, dealing directly with South Dakota's farmers and ranchers. His friends are confident that is what guided him in making his daily decisions on how our farm programs should function. While working day-to-day in the Department of Agriculture, he never forgot for whom he worked. The American farmer.

In the spring of 1995, Secretary Glickman came to South Dakota to see first hand the devastation our State experienced with severe flooding, the likes of which our State has never seen. The Secretary gave Grant the marching orders and he fulfilled those orders. Streamline disaster assistance, and get the help to those in need. Again, the American farmer.

He is going back to his roots, in Columbia, South Dakota. He was born and raised on a wheat and cattle farm in Columbia, where he graduated from high school and later attended South Dakota State University in Brookings. He served his country in the U.S. Navy from 1955 to 1957.

I offer my condolences to his wife, Donna, his mother, Marietta, and his children, LeAnn, Janelle, Gregory, his stepsons, Stephen, and Gregory, and his seven grandchildren. They truly can be proud of Grant's service to his country.

South Dakota and the Nation has lost a true friend of agriculture. But a friend of agriculture who has left many a mark for years to come.●

TRIBUTE TO BERNIE WRIGHT

● Mr. HOLLINGS. Mr. President, rural South Carolina faces many diverse challenges, challenges that never intimidated Bernie Wright. Mr. Wright has recently left his post as State Director of the Farmers Home Administration and Rural Development after eight years, capping off an impressive 30 years of service with the USDA. Throughout his tenure as director, Mr. Wright remained committed to invigorating rural economies and improving the lives of citizens living and working in rural communities. He helped ensure that our State's small towns have the infrastructure to accomplish big things. Many people, including myself, have had the distinct pleasure of working with Bernie Wright and I am certain we will continue to reap the benefits of his accomplishments for years to come.●

IN MEMORY OF JOHN V. LINDSAY

● Mr. DODD. Mr. President, I rise today to pay tribute to the late John V. Lindsay, a talented public servant and a remarkable man.

John Lindsay served in public office, first as a Member of the United States House of Representatives, then as Mayor of New York City, during the 1960's and early 1970's, a tumultuous period in our Nation's history. In ways both large and small, he demonstrated an unswerving commitment to reason, to compassion and to progress for all Americans.

As a Republican, he recalled that he belonged to the party of Lincoln. While many in the 1960's and 1970's walked the streets of America's cities, he walked the streets of Harlem, jacket flung over his shoulder, to promote understanding and harmony. While many counseled caution and hesitation, he urged reconciliation among the races and attention to the needs of the less fortunate. And while many fled our cities for suburbia, he stayed and worked tirelessly to make urban America safer and more culturally enriching for residents and visitors alike.

John Lindsay made the fate of America's cities an urgent national concern. He believed that the Nation's future rested on the health and vibrancy of its urban centers. He supported the arts, affordable housing, school reforms and other initiatives to provide a better quality of life for both residents of and visitors to America's cities. Today, the renaissance being experienced in cities like New York, Philadelphia, Chicago, and Los Angeles suggest that John Lindsay's hopeful vision for our cities has been realized at least in part.

Upon graduating from Yale University in 1943, he joined the Naval Reserve as an ensign, serving as a gunnery officer during World War II. He participated in the invasion of Sicily and in the American landings in Hollandia, the Admiralty Islands and the Philippines. He won five battle stars and was a lieutenant when he was discharged in 1946.

Twelve years later, in 1958, John ran for Congress in New York's 17th Congressional District, which extended from Harlem to Greenwich Village on the East Side. Though ethnically and culturally diverse, he represented all of the people of his district with understanding, empathy, and a keen sense of their varied needs. He would represent them for eight years, re-elected three times by successively larger margins. Thereafter, he would represent all of the people of New York as Mayor from 1966 to 1974.

In 1972, John ran for President. As we all know, he did not prevail in that endeavor, at least at the ballot box. But in another sense, he succeeded in showing many in America what the people of New York City already knew; that he was a man of uncommon intelligence, charisma, and vision.

On a personal note, let me say that I had the great good fortune to know John not only as an elected leader, but as a friend. I will always cherish his warmth, his wit, and the wisdom he brought to all he did and said.

Our Nation has lost a public servant of rare gifts and broad vision. I extend my deepest sympathies to his wife, Mary Lindsay, to his children Katherine Lake, Margaret Picotte, Anne Lindsay, John Jr., their spouses and his five grandchildren.●

MESSAGE FROM THE HOUSE

At 1:32 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to section 5(a) of the James Madison Commemoration Commission Act (Public Law

106–550), the Speaker appoints the following Members of the House of Representatives to the James Madison Commemoration Commission: Mr. GOODLATTE of Virginia and Mr. CANTOR of Virginia.

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–975. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the annual report on the Proliferation of Missiles and Essential Components of Nuclear, Biological, and Chemical Weapons for Calendar Year 1998; to the Committee on Foreign Relations.

EC–976. A communication from the Acting Assistant Secretary of the Pension and Welfare Benefits Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Rules for Nondiscrimination in Health Coverage in the Group Market'' (RIN1210–AA77) received on March 9, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–977. A communication from the Deputy Chief Financial Officer, Office of the Under Secretary of Defense, transmitting, pursuant to law, the annual report related to audited financial statements for Fiscal Year 2000; to the Committee on Armed Services.

EC–978. A communication from the Managing Director of the Federal Communications Commission, transmitting, pursuant to law, the annual report concerning commercial inventory submissions for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC–979. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report to assist and support congressional oversight providing budgetary implications of certain problems; to the Committee on Governmental Affairs.

EC–980. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Texas; Electric Generating Facilities; and Major Stationary Sources of Nitrogen Oxides for the Dallas/Fort Worth Ozone Nonattainment Area'' (FRL6952–9) received on March 12, 2001; to the Committee on Environment and Public Works.

EC–981. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Request for Grant Proposals Making Growth Work: Community Innovations and Responses to Barriers'' received on March 12, 2001; to the Committee on Environment and Public Works.

EC–982. A communication from the Director of the Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''List of Approved Spent Fuel Storage Casks: HI-STAR 100 Revision'' (RIN3150–AG67) received on March 12, 2001; to the Committee on Environment and Public Works.

EC–983. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Imazethapyr; Time-Limited Pesticide Tolerance'' (FRL6774-9) received on March 9, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–984. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pyriproxyfen; Pesticide Tolerance'' (FRL6766–6) received on March 9, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–985. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pymetrozine; Pesticide Tolerances for Emergency Exemptions'' (FRL6766–9) received on March 9, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–986. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations: (Including Five Regulations)'' ((RIN2115–AE46)(2001–0003)) received on March 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–987. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Include Two Regulations'' ((RIN2115–AE47)(2001–0023)) received on March 12, 2001; to the Committee on Commerce, Science, and Transportation.

EC–988. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: (Including 164 Regulations)'' ((RIN2115–AA97)(2001–0004)) received on March 12, 2001; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

From the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 350: A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes (Rept. No. 107–2).

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. DODD (for himself and Mr. LIEBERMAN):

S. 513. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Eightmile River in Connecticut for potential addition to the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SMITH of New Hampshire (for himself, Mr. CRAIG, and Mr. INHOFE):

S. 514. A bill to amend title 18 of the United States Code to provide for reciprocity in regard to the manner in which nonresidents of a State may carry certain concealed firearms in that State; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. FRIST, Mr. LIEBERMAN, Ms. SNOWE, Mr. ROCKEFELLER, Mr. KENNEDY, and Mr. BAYH):

S. 515. A bill to amend the Internal Revenue Code of 1986 to establish a permanent tax incentive for research and development, and for other purposes; to the Committee on Finance.

By Ms. SNOWE:

S. 516. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for higher education loan interest payments; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mrs. MURRAY):

S. 517. A bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL:

S.Res. 58. A resolution to authorize the printing of a collection of the rules of the committees of the Senate; considered and agreed to.

ADDITIONAL COSPONSORS

S. 41

At the request of Mr. HATCH, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 41, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit.

S. 60

At the request of Mr. BYRD, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 60, a bill to authorize the Department of Energy programs to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

S. 92

At the request of Mr. GRAMM, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 92, a bill to authorize appropriations for the United States Customs Service for fiscal years 2002 and 2003, and for other purposes.

S. 96

At the request of Mr. KOHL, the name of the Senator from Wisconsin (Mr.

FEINGOLD) was added as a cosponsor of S. 96, a bill to ensure that employees of traveling sales crews are protected under the Fair Labor Standards Act of 1938 and under other provisions of law.

S. 170

At the request of Mr. HUTCHINSON, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 178

At the request of Mr. WELLSTONE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 178, a bill to permanently reenact chapter 12 of title 11, United States Code, relating to family farmers.

S. 206

At the request of Mr. SHELBY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 206, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 2001, and for other purposes.

S. 208

At the request of Mr. FRIST, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 208, a bill to reduce health care costs and promote improved health care by providing supplemental grants for additional preventive health services for women.

S. 237

At the request of Mr. HUTCHINSON, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 237, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

S. 251

At the request of Mr. HUTCHINSON, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 251, a bill to require the Food and Drug Administration to establish restrictions regarding the qualifications of physicians to prescribe the abortion drug commonly known as RU-486.

S. 262

At the request of Mr. CLELAND, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 262, a bill to provide for teaching excellence in America's classrooms and homerooms.

S. 327

At the request of Mr. REED, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 327, a bill to amend the Elementary and Secondary Education Act of 1965 to provide up-to-date school library media resources and well-trained, professionally certified school library media specialists for elementary schools and secondary schools, and for other purposes.

S. 336

At the request of Mr. BOND, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 336, a bill to amend the Internal Revenue Code of 1986 to allow use of cash accounting method for certain small businesses.

S. 350

At the request of Mr. CHAFEE, the names of the Senator from New Jersey (Mr. TORRICELLI), the Senator from Illinois (Mr. DURBIN), the Senator from Massachusetts (Mr. KERRY), the Senator from Hawaii (Mr. AKAKA), the Senator from Louisiana (Mr. BREAUX), the Senator from New Hampshire (Mr. GREGG), and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 350, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes.

S. 361

At the request of Mr. MURKOWSKI, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 361, a bill to establish age limitations for airmen.

S. 368

At the request of Mr. MCCAIN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 368, a bill to develop voluntary consensus standards to ensure accuracy and validation of the voting process, to direct the Director of the National Institute of Standards and Technology to study voter participation and emerging voting technology, to provide grants to States to improve voting methods, and for other purposes.

S. 452

At the request of Mr. MURKOWSKI, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 452, a bill to amend title XVIII of the Social Security Act to ensure that the Secretary of Health and Human Services provides appropriate guidance to physicians, providers of services, and ambulance providers that are attempting to properly submit claims under the medicare program to ensure that the Secretary does not target inadvertent billing errors.

S. 464

At the request of Mr. BAYH, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 464, a bill to amend the Internal Revenue Code of 1986 to allow a tax credit for long-term care givers.

S. 480

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 480, a bill to amend titles 10 and 18, United States Code, to protect unborn victims of violence.

S. 484

At the request of Ms. SNOWE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 484, a bill to amend part B of title IV of the Social Security Act to create a grant program to promote joint activities among Federal, State, and local public child welfare and alcohol and drug abuse prevention and treatment agencies.

S. 501

At the request of Mr. GRAHAM, the names of the Senator from Maine (Ms. COLLINS) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 501, a bill to amend titles IV and XX of the Social Security Act to restore funding for the Social Services Block Grant, to restore the ability of States to transfer up to 10 percent of TANF funds to carry out activities under such block grant, and to require an annual report on such activities by the Secretary of Health and Human Services.

S. CON. RES. 14

At the request of Mr. CAMPBELL, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. Con. Res. 14, a concurrent resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of it.

S. RES. 16

At the request of Mr. THURMOND, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. Res. 16, a resolution designating August 16, 2001, as ''National Airborne Day.''

S. RES. 23

At the request of Mr. CLELAND, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 23, a resolution expressing the sense of the Senate that the President should award the Presidential Medal of Freedom posthumously to Dr. Benjamin Elijah Mays in honor of his distinguished career as an educator, civil and human rights leader, and public theologian.

S. RES. 25

At the request of Mr. CRAIG, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from Alaska (Mr. STEVENS), the Senator from Wyoming (Mr. ENZI), the Senator from Maryland (Mr. SARBANES), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Washington (Mrs. MURRAY), the Senator from Hawaii (Mr. INOUYE), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. Res. 25, a resolution designating the week beginning March 18, 2001 as ''National Safe Place Week.''

S. RES. 43

At the request of Mr. MURKOWSKI, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Hawaii (Mr.

INOUYE), the Senator from Washington (Mrs. MURRAY), the Senator from Alabama (Mr. SHELBY), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. Res. 43, a resolution expressing the sense of the Senate that the President should designate the week of March 18 through March 24, 2001, as ''National Inhalants and Poisons Awareness Week.''

AMENDMENT NO. 16

At the request of Ms. COLLINS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 16 proposed to S. 420, an original bill to amend title II, United States Code, and for other purposes.

AMENDMENT NO. 29

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 29 proposed to S. 420, an original bill to amend title II, United States Code, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 513. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Eightmile River in Connecticut for potential addition to the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DODD. Mr. President, today, I am pleased to introduce the Eightmile River Wild and Scenic River Study Act of 2001, along with my colleague Senator LIEBERMAN. Representative SIMMONS of Connecticut introduced similar legislation in the House. The Eightmile River system is an important water resource within the Lower Connecticut River watershed.

For more than 30 years, the Wild and Scenic River program has been a successful public-private partnership to preserve certain select rivers in a free-flowing state. Designation as a Wild and Scenic River would ensure that the river and surrounding watershed are protected from development projects under the locally controlled Conservation Management Plan, which works to preserve a river's natural and significant resources.

But before a river receives Designation status as Wild and Scenic, a comprehensive study must be undertaken to determine whether a river possesses recreational, ecological, and scenic significance. Further, it must be demonstrated that there is a strong local and long-term commitment to preserving a river.

I am confident of the Eightmile River's significance and community support. Five years ago, the Connecticut towns of Salem, East Haddam and Lyme joined with educational and environmental groups to form the Eightmile River Watershed Committee and signed a Conservation Compact to preserve the river. Another local group, the Connecticut River Watershed Council, has been working with local, state, and federal agencies to restore migratory fish to the Eightmile River. The building of fish ladders means that the area can now serve as a restored spawning area for Blue-backed Herring and Atlantic Salmon. Finally, property owners support designation for the Eightmile River in order to preserve the natural resource that flows by and near their property. Clearly, there is a grassroots commitment to retain the integrity of this river.

The State of Connecticut has recognized the Eightmile River as a ''River of Importance.'' Eighty-five percent of the Eightmile River Watershed is forested and more than 180 species of birds, fish, plants and reptiles live there. It is truly one of the most diverse and thriving ecosystems in the lower Connecticut River Valley.

Connecticut is a small state, less than 5,000 square miles, and is densely populated. While the State is actively working to preserve open space, the state consistently ranks near the bottom in the amount of Federal land. Our citizens are committed to balancing conservation and growth. That is why this designation is so important. While the state and local groups have done exceptional work so far, this designation would bring in federal technical assistance and foster coordination among the many concerned groups. It is time to get the formal process started.

For all of these reasons, I am pleased to introduce the Eightmile River Wild and Scenic River Study Act of 2001.

By Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. FRIST, Mr. LIEBERMAN, Ms. SNOWE, Mr. ROCKEFELLER, Mr. KENNEDY, and Mr. BAYH):

S. 515. A bill to amend the Internal Revenue Code of 1986 to establish a permanent tax incentive for research and development, and for other purposes; to the Committee on Finance.

Mr. DOMENICI. Mr. President, today I am joining my co-sponsors, Senators BINGAMAN, FRIST, LIEBERMAN, SNOWE, KENNEDY and BAYH in introducing the ''Private Sector Research and Development Investment Act of 2001'' This bill makes the Research Tax Credit permanent and significantly improves the structure of the Credit.

I am very pleased that President Bush has already endorsed a permanent Credit in his Agenda for Tax Relief. In the discussion of his tax package, President Bush notes that:

> The credit encourages the technological developments that are an important component of economic growth. . . . This should help spur the sustained, long-term investment in R&D that America needs to develop the next generation of critical technologies.

I wholeheartedly agree.

I am also pleased to join with Senator HATCH and many cosponsors in his bill to permanently extend the research credit and to increase the rates of the alternative incremental credit.

Today I want to suggest that we go a little further than both of these proposals in revising the Research Tax Credit. We should use the enthusiasm toward making the credit permanent to also improve it. In the process, we can significantly help the innovation process in our nation at the same time that we strengthen our universities and small businesses.

Advanced technologies drive a significant part of our nation's economic strength. Our economy and our standard of living depend on a constant influx of new technologies, processes, and products from our industries. Federal Reserve Chairman Greenspan has frequently reinforced the critical dependence between advanced technology and our economic strength.

Many countries provide labor at lower costs than the United States. Thus, as any new product matures, competitors using overseas labor frequently find ways to undercut our production costs. We maintain our economic strength only by constantly improving our products through innovation. Maintaining and improving our national ability to innovate is critically important to the nation.

Today, we are introducing legislation to improve the Research Tax Credit. The single most important change in our bill is to make the Credit permanent, as the President proposes. But other parts of the Credit would benefit from improvements.

For example, the current Credit references a company's research in 1984–88. That leads to situations where two companies doing the same research today receive different credits, depending on what they did in 1984.

As another example, now there is a ''Basic Research Credit'' allowed, but rarely used because of the way it is written. We could be using this section to encourage unversity research, as I have done in this bill. We also provide incentives for research to be done with research consortia.

In summary, this bill incorporates the improvements suggested by the President and in other current bills, and it goes further to strengthen the Credit.

With this new bill, we will significantly strengthen incentives for private companies to undertake research that leads to new processes, new services, and new products. The result will be stronger companies that are better positioned for global competition. Those stronger companies will hire more people at higher salaries with real benefits to our national economy and workforce.

Madam President, I will speak on the subject of the credit that American businesses get for research which is part of the Tax Code. I hope the distinguished chairman of the Finance Committee is aware this year the research tax credit has different

support this year because the President of the United States has asked we make permanent this very important part of our Tax Code that gives American companies, large and small, an opportunity to take part of their research and apply for a research tax credit.

I am introducing a bill today that improves the tax credit. The President asked us to extend it so businesses will know where they are, which has been your position for years. I am sure the Senator will do that. Today I introduce a bill for 8 Senators on both sides of the aisle. We think it has to be improved in two or three ways. We want to make sure in America today that research by businesses, being done with universities, with laboratories, with a consortia of two or three companies and universities, two or three companies and laboratories, we want to make sure that research fits the definition of a research tax credit. That is what the big change has been.

Companies are not doing everything in house. They are doing it with universities, with other companies. They do not all get the tax credit, although it is part of the American marketplace, unless we modify the current tax credit. This bill we introduce does that and six or seven other things to make it more functional. We will be calling it to the attention of your staff as a separate item. Although we support Senator HATCH's bill that says continue it, make it permanent, we think it ought to be improved to fit what is truly the way American businesses are doing business today in the marketplace of science.

I ask the bill for myself, Senator BINGAMAN, and seven other Senators be sent to the desk and appropriately referred.

The PRESIDING OFFICER. The bill will be received and referred.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 58—TO AUTHORIZE THE PRINTING OF A COLLECTION OF THE RULES OF THE COMMITTEES OF THE SENATE

Mr. MCCONNELL submitted the following resolution; which was considered and agreed to:

S. RES. 58

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 500 additional copies of such document for the use of the Committee on Rules and Administration.

AMENDMENTS SUBMITTED AND PROPOSED

SA 35. Mr. WELLSTONE proposed an amendment to the bill S. 420, to amend title II, United States Code, and for other purposes.

SA 36. Mr. WELLSTONE proposed an amendment to the bill S. 420, supra.

SA 37. Mr. WELLSTONE proposed an amendment to the bill S. 420, supra.

SA 38. Mr. KENNEDY (for himself, Mr. ROCKEFELLER, and Mrs. CLINTON) proposed an amendment to the bill S. 420, supra.

SA 39. Mr. KENNEDY proposed an amendment to the bill S. 420, supra.

SA 40. Mrs. CARNAHAN submitted an amendment intended to be proposed by her to the bill S. 420, supra; which was ordered to lie on the table.

SA 41. Mr. LEAHY proposed an amendment to the bill S. 420, supra.

TEXT OF AMENDMENTS

SA 35. Mr. WELLSTONE proposed an amendment to the bill S. 420, to amend title II, United States Code, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) IN GENERAL.—Section 521(a) of title 11, United States Code, as so designated by section 106(d) of this Act, is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) unless a trustee is serving in the case, if at the time of filing, the debtor, served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) of an employee benefit plan, continue to perform the obligations required of the administrator.''.

(b) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as so designated and otherwise amended by this Act, is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) in paragraph (11), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(12) where, at the time of the time of the commencement of the case, the debtor served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) of an employee benefit plan, continue to perform the obligations required of the administrator;''.

(c) CONFORMING AMENDMENT.—Section 1106(a) of title 11, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), (11), and (12) of section 704;''.

Amend the table of contents accordingly.

SA 36. Mr. WELLSTONE proposed an amendment to the bill S. 420, to amend title II, United States Code, and for other purposes; as follows:

At the end of subtitle A of title II, add the following:

SEC. 204. DISALLOWANCE OF CERTAIN CLAIMS; PROHIBITION OF COERCIVE DEBT COLLECTION PRACTICES.

(a) IN GENERAL.—Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking ''or'' at the end;

(2) in paragraph (9), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end of the following:

''(10) such claim arises from a transaction—

''(A) that is—

''(i) a consumer credit transaction;

''(ii) a transaction, for a fee—

''(I) in which the deposit of a personal check is deferred; or

''(II) that consists of a credit and a right to a future debit to a personal deposit account; or

''(iii) a transaction secured by a motor vehicle or the title to a motor vehicle; and

''(B) in which the annual percentage rate (as determined in accordance with section 107 of the Truth in Lending Act) exceeds 100 percent.''.

(b) UNFAIR DEBT COLLECTION PRACTICES.—

(1) IN GENERAL.—Section 808 of the Fair Debt Collection Practices Act (15 U.S.C. 1692f) is amended—

(A) in the first sentence, by striking ''A debt collector'' and inserting the following:

''(a) IN GENERAL.—A debt collector''; and

(B) by adding at the end the following:

''(b) COERCIVE DEBT COLLECTION PRACTICES.—

''(1) IN GENERAL.—It shall be unlawful for any person (including a debt collector or a creditor) who, for a fee, defers deposit of a personal check or who makes a loan in exchange for a personal check or electronic access to a personal deposit account—

''(A) to threaten to use or use the criminal justice process to collect on the personal check or on the loan;

''(B) to threaten to use or use any process to seek a civil penalty if the personal check is returned for insufficient funds; or

''(C) to threaten to use or use any civil process to collect on the personal check or the loan that is not generally available to creditors to collect on loans in default.

''(2) CIVIL LIABILITY.—Any person who violates this section shall be liable to the same extent and in the same manner as a debt collector is liable under section 813 for failure to comply with a provision of this title.''.

(2) CONFORMING AMENDMENT.—Section 803(6) of the Fair Debt Collection Practices Act (15 U.S.C. 1692a(6)) is amended by striking ''808(6)'' and inserting ''808(a)(6)''.

On page 253, line 15, insert ''as amended by this Act,'' after ''Code,''.

On page 253, line 16, strike ''period'' and insert ''semicolon''.

Amend the table of contents accordingly.

SA 37. Mr. WELLSTONE proposed an amendment to the bill S. 420, to amend title II, United States Code, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. DETERMINATION OF ELIGIBILITY FOR TRADE ADJUSTMENT ASSISTANCE IN CASES INVOLVING TACONITE PELLETS.

For purposes of determining, under section 222 or 250 of the Trade Act of 1974 (19 U.S.C. 2272 and 2331), the eligibility of a group of workers for adjustment assistance under chapter 2 of title II of the Trade Act of 1974, increased imports of semifinished steel slabs shall be considered to be articles like or directly competitive with taconite pellets.

SA 38. Mr. KENNEDY (for himself, Mr. ROCKEFELLER, and Mrs. CLINTON) proposed an amendment to the bill S. 420, to amend title II, United States Code, and for other purposes; as follows:

On page 10 between lines 17 and 18, insert the following:

''(V) In addition, if the debtor does not have health insurance benefits, the debtor's monthly expenses shall include an allowance to purchase a health insurance policy for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case if the spouse is not otherwise a dependent.

SA 39. Mr. KENNEDY proposed an amendment to the bill S. 420, to amend title II, United States Code, and for other purposes; as follows:

Beginning on page 101, line 10, strike all through page 102, line 2.

Mr. JEFFORDS. Mr. President, the amendment before us is the continuation of a debate that began in 1999. The bankruptcy bill contains a provision that would place a $1 million cap on voluntary contributions in an IRA owned by a bankrupt debtor. While this provision is aimed at the same problem as the ''homestead exemption cap,'' it misses the mark. IRAs already have a cap on voluntary contributions of $2,000 per year so it is impossible to ''stuff'' significant funds into an IRA in advance of filing for bankruptcy. In fact, the annual $2,000 contribution limits are generally viewed as being too low. In order to accumulate $1 million in voluntary $2,000 contributions, it would take roughly 40 years, even with a 10% rate of return.

I believe that this $1 million cap is practically impossible to administer. The cap does not apply to rollover funds from a pension plan. There are thousands of rollover IRAs in excess of $1 million. As Baby Boomers retire and take lump sum distributions from retirement plans, the number of $1 million IRAs will skyrocket.

However, tax law does not require that IRA rollover accounts be separated from voluntary tax-deductible IRA contributions. The principal and interest in these accounts is also comingled. But, in order satisfy orders from Bankruptcy Courts to disgorge assets in co-mingled accounts, IRA Administrators will be forced to engage in costly and time consuming audits of the accounts to distinguish the funds.

I am most concerned, however, about the impact of this amendment on rollovers from retirement plans. Last year, we were successful in preventing the bankruptcy bill from the unprecedented breaching of the anti-alienation provisions of ERISA. The $1 million cap on IRAs will discourage retirement savings and pension portability by introducing uncertainty in the system. It will encourage individuals who change jobs to simply take the cash and spend it, rather than roll their funds into an IRA that would no longer be completely inviolate.

For all the potential harm that this provision of the bill would do, its benefits are only theoretical at some point in the future. I believe that the cost of this provision is too high and I urge my colleagues to support the amendment to strike Section 224(e) of the bill

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SA 40. Mrs. CARNAHAN submitted an amendment intended to be proposed by her to the bill S. 420, to amend title II, United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, between lines 17 and 18, insert the following:

''(V) In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the Internal Revenue Service, based on the actual expenses for home energy costs, if the debtor provides documentation of such expenses.

SA 41. Mr. LEAHY proposed an amendment to the bill S. 420, to amend title II, United States Code, and for other purposes; as follows:

On page 124, between lines 10 and 11, insert the following:

SEC. 233. PROHIBITION ON DISCLOSURE OF IDENTITY OF MINOR CHILDREN.

(a) PROHIBITION.—Chapter 1 of title 11, United States Code, is amended by adding after section 111, as added by this Act, the following:

''§ 112. Prohibition on disclosure of identity of minor children

''In a case under this title, the debtor may be required to provide information regarding a minor child involved in matters under this title, but may not be required to disclose in the public records in the case the name of such minor child.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''112. Prohibition on disclosure of identity of minor children.''.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, March 21, 2001, at 9:30 a.m., in room SD–106 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review current U.S. energy trends and recent changes in U.S. energy markets.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SRC–2 Russell Senate Office Building, Washington, DC 20510–6150.

For further information, please call Trici Heninger or Bryan Hannegan at (202) 224–7932.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MCCONNELL. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., Wednesday, March 14, 2001, in Room SR–301 Russell Senate Office Building, to conduct a hearing on election reform.

For further information concerning this meeting, please contact Tamara Somerville at the Committee on 4–6352.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MCCONNELL. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., Thursday, March 15, 2001, in Room SR–301 Russell Senate Office Building, to conduct a hearing on election reform.

For further information concerning this meeting, please contact Tam Somerville at the Committee on 4–6352.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Deborah Forbes of my Labor Committee office be granted access to the floor during the deliberations of the bankruptcy bill.

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

APPOINTMENT

The PRESIDING OFFICER. The Chair announces, on behalf of the Secretary of the Senate, pursuant to Public Law 101–509, the reappointment of James B. Lloyd, of Tennessee, to the Advisory Committee on the Records of Congress.

AUTHORIZING PRINTING OF COLLECTION OF RULES OF THE COMMITTEES OF THE SENATE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 58, submitted earlier by Senator MCCONNELL.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 58) to authorize the printing of a collection of the rules of the committees of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 58) was agreed to.

(The text of the resolution is located in today's RECORD under ''Submitted Resolutions.'')

ORDERS FOR TUESDAY, MARCH 13, 2001

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Tuesday, March 13. I further ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 10 a.m., with Senators speaking for up to 5 minutes each, with the following exceptions: Senator DURBIN, or his designee, 9:30 a.m. to 9:45 a.m., and Senator ALLEN, 9:45 a.m. to 10 a.m.

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

Mr. GRASSLEY. Mr. President, I further ask unanimous consent that at 10 a.m., the Senate resume consideration of S. 420, the bankruptcy reform bill, with Senator HOLLINGS being immediately recognized for up to 20 minutes for discussion of the lockbox issue, notwithstanding the previous order.

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

Mr. GRASSLEY. Mr. President, I also ask unanimous consent that the Senate stand in recess from the hours of 12:30 p.m. to 2:15 p.m. for the weekly policy conferences to meet.

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

PROGRAM

Mr. GRASSLEY. Mr. President, for the information of all Senators, the Senate will convene at 9:30 a.m. and will resume consideration of the bankruptcy legislation at 10 a.m. Two votes have been ordered to occur at 11 a.m. on the Kennedy amendment and the Feinstein amendment, as modified. Following the policy luncheons at 2:15 p.m., there will be 30 minutes for debate on the Conrad and Sessions amendments with votes ordered to occur at 2:45 tomorrow afternoon.

ORDER FOR FILING FIRST-DEGREE AMENDMENTS—S. 420

Mr. GRASSLEY. Mr. President, cloture was filed on the bill during today's session. Therefore, I ask unanimous consent that notwithstanding the recess of the Senate, all first-degree amendments must be filed by 1 p.m.

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

ADJOURNMENT UNTIL TOMORROW AT 9:30 A.M.

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:56 p.m., adjourned until Tuesday, March 13, 2001, at 9:30 a.m.