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Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
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Kennedy (RI)
Kim
King (NY)
Kingston
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Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
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Miller (FL)
Moran (KS)
Moran (VA)
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Peterson (MN)
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Sanford
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Schaefer, Dan
Schaffer, Bob
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Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Stearns
Stump
Sununu
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Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
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Wamp
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Watts (OK)
Weldon (FL)
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Weller
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Andrews
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Barrett (WI)
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Bentsen
Berman
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Bishop
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Blumenauer
Bonior
Brady (PA)
Brown (CA)
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Capps
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Cummings
Danner
Davis (IL)
DeFazio
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Delahunt
DeLauro
Dicks
Dixon
Doggett
Doyle
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Fattah
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Filner
Ford
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Gejdenson
Gephardt
Green
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Hall (OH)
Hamilton
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Jefferson
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Johnson, E. B.
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Rahall
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Schumer
Scott
Serrano
Skelton
Slaughter
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Taylor (MS)
Thompson
Thurman
Tierney
Torres
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Visclosky
Waters
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NOT VOTING—19

Borski
Conyers
Cook
Farr
Gilman
Gonzalez
Harman
Houghton
Inglis
Klug
Leach
Linder
Lofgren
McDermott
Moakley
Oxley
Pickett
Sensenbrenner
Young (FL)

☐ 1219

Mr. DICKS, Ms. MCCARTHY of Missouri, and Messrs. OBEY, JEFFERSON, and BISHOP changed their vote from ''yea'' to ''nay.''

Mr. GIBBONS and Mr. ROTHMAN changed their vote from ''nay'' to ''yea.''

So the question of consideration was decided in the affirmative.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MCDERMOTT. Mr. Speaker, I was unavoidably delayed at the White House and missed rollcall vote number 216 regarding House Resolution 462. Had I been present, I would have voted ''no.''

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, During Rollcall Number 216 I was unavoidably detained and missed the vote. If I had been present I would have voted ''aye.''

The SPEAKER pro tempore. The gentleman from Colorado (Mr. MCINNIS) is recognized for 1 hour.

Mr. MCINNIS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 462 is a structured rule providing for consideration of H.R. 3150, the Bankruptcy Reform Act of 1998, a bill that will improve bankruptcy practices and restore personal responsibility and integrity to the bankruptcy system.

House Resolution 462 provides for 1 hour of general debate, equally divided between the chairman and ranking member of the Committee on the Judiciary. The rule also waives section 303(a) of the Congressional Budget Act against consideration of the bill.

Mr. Speaker, the rule provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill be considered as an original bill for the purpose of amendment.

House Resolution 462 provides that the committee amendment in the nature of a substitute shall be considered by title and that each title shall be considered as read. The rule also waives all points of order against the committee amendment in the nature of a substitute. The rule provides that no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the Committee on Rules report.

Each amendment may only be offered in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment.

The rules also waives all points of order against amendments printed in the report.

This rule also allows the Chairman of the Committee of the Whole to postpone recorded votes and to reduce to 5 minutes the voting time after the first of a series of votes, provided that the first vote is not less than 15 minutes.

This provision will provide a more definite voting schedule and will help guarantee the timely completion of this important legislation. House Resolution 462 also provides for one motion to recommit with or without instructions, as is the right of the minority.

Mr. Speaker, we face a bankruptcy crisis in America today in which the needs of the debtor and the rights of the creditor are no longer in any kind of equilibrium. The balance between the debtor and the creditor has been lost and reform is clearly necessary. Basically we are asking that people assume personal responsibility, that they pay their bills when their bills are due, that they not give their word when they do not intend to keep their word.

We need to reestablish and preserve the original balance of the bankruptcy code in areas of which it has lost its fairness and modernize the sections of the code which have become outdated. H.R. 3150 achieves these goals.

When we consider the need for bankruptcy reform, it strikes me that we should simply look at some of the more startling statistics. The number of bankruptcies has increased more than 400 percent since 1980, more than 400 percent since 1980. This year there are expected to be more than 1.4 million bankruptcies, more than one bankruptcy in every 100 American households.

This extraordinary increase comes during a time of economic prosperity, not a period of recession that usually would bring more people into the bankruptcy court. Instead the increase is largely due to bankruptcies of convenience. Let me repeat that, bankruptcies of convenience.

We have the healthiest economy we have ever faced in the history of this country, yet our bankruptcies are exploding. Why? Because it is the convenient thing to do. It is the easy street. It is the easy way out.

This increase of bankruptcies of convenience is simply a ploy that is used by some people that owe money and

their bankruptcy attorneys to avoid paying all or most of their debts, even though they are financially capable and able to do so.

Bankruptcy was always intended to be for a person who ran into unintended consequences who could not pay their bills to give them a new chance on life. Now what we have seen is we have seen that overwhelmed by the bankruptcy of convenience. These bankruptcies of convenience, initiated, by the way, from abusers of our bankruptcy laws, are having a very harmful impact on our Nation's competitiveness. The current system is unfair to all people who are fiscally responsible, who are penalized in the form of higher prices, credit card rates, interest rate increases. In other words, the people who do pay their bills have to carry the load for those who do not pay their bills.

To reduce these costs, we must end the widespread abuses of the system. This bill is sensitive to the fact that people may lose their job, have a medical crisis or they may come upon hard times, real hard times, realistic hard times, not artificial hard times. However, what we are finding in many cases is that a growing number of people who file for bankruptcy relief under Chapter 7 actually have the capability to pay at least some of their debts. In fact, a study by Ernst and Young showed that 15 percent of the people who filed under Chapter 7 could have repaid 64 percent of their unsecured debts.

This bill repairs a system that rewards abuse of the system. In other words, the current system rewards one to abuse the system. This bill changes that. This bill makes bankruptcy really applicable to those people that need it and takes it out of the reach of those people who abuse it or use it as convenience.

At the heart of these reforms is implementation of a needs-based mechanism that ensures that those debtors who can afford to repay some of their debts simply repay what they can afford to repay. At the same time, H.R. 3150 preserves the right of bankruptcy relief for those in true financial straits by targeting only those who have the ability to repay. Contrary to what we will hear certainly and what I would expect today in the floor debate, this bill provides that none of the reforms will adversely impact the priority treatment accorded to child support claims. That is a critical issue for me. That an important issue for me.

In fact, H.R. 3150 incorporated additional safeguards to enhance the existing protections for family support.

□ 1230

H.R. 3150 represents another example of this Congress's efforts to encourage individual responsibility. The Republican Party feels that individual responsibility is a basic and fundamental standard that we should all accept. The current system promotes fiscal irresponsibility and gives people a loophole that encourages mismanagement of individual finances. Bankruptcy was designed to serve as a last resort to be utilized only in the most desperate circumstances. That is not what is happening today. In fact, today we see bankruptcy kind of synonymous with the word convenience. We see personal responsibility for some reason not politically correct to talk about. With the changes in this bill, we will renotify people that they do need to be held accountable for their debts that they have accumulated. We will remind them about keeping their word. We will remind them to not go out and spend money that they do not have. Accept personal responsibility.

I actually am optimistic that the country is taking a turn, it is going back to the fundamentals of this country, basic responsibility, strong education, et cetera, et cetera. But any formula you look at for the success of this country has to incorporate within its terms personal responsibility.

With regard to the consideration of amendments, the Committee on Rules has done its best to accommodate Members who filed amendments with the Committee on Rules. We have been more than fair in permitting six Democrat amendments, five Republican amendments, and one bipartisan amendment. We faced numerous duplicative amendments in the Committee on Rules and we did our best in the Committee on Rules to allow a wide variance of amendments on a number of key issues. In reviewing the amendments provided to the Committee on Rules, we also noted that there are those Members who simply do not wish to see any changes in the bankruptcy laws. We have some Members that want this to continue to be a tool of convenience. We have some Members who for some reason have put personal responsibility aside and use this charade of the current bankruptcy system as the policy that ought to be in place.

This rule is a fair rule, Mr. Speaker, and I urge all of my colleagues to support it so that we may proceed with general debate and consideration of amendments and the merits of this important bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Colorado for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I rise in strong opposition to this rule. I oppose the hasty process this rule embraces, I oppose the breach of faith that this rule embodies, and I oppose the damage to America's children this rule refuses to address.

Last year, more than 1 million American families went through bankruptcy, leaving millions of creditors without full payment for their goods and services. Is the record number of bankruptcies a serious problem? Yes. Is this bill a real answer to the problem? No one knows. Some claim that it will result in fewer bankruptcies, but others believe it is a giveaway to the very creditors whose profligate lending may be the chief cause of increased bankruptcies.

Article I, Section 8 of the United States Constitution requires the Congress ''to establish uniform Laws on the subject of Bankruptcies throughout the United States.'' Beginning in 1792, the Congress has taken this responsibility seriously, carefully weighing creditors' rights against a new start for the debtor.

The precedent is that the House crafts bankruptcy legislation carefully, and on a bipartisan basis. At yesterday's Committee on Rules hearing, we learned that in 1978, the last time that fundamental changes to the bankruptcy code were proposed, a National Bankruptcy Commission proposed the outline of the changes, the House held 38 days of hearings, and the Senate held 24 days of hearings.

Compare that careful deliberation with this bill's consideration. Again we had recommendations from a National Bankruptcy Commission, but this bill ignores them, and in major instances includes ideas expressly rejected by the Commission. The House held only 4 days of hearings, and the Committee on the Judiciary's markup was so rushed that germane amendments offered by committee members were not even considered. In fact, the gentleman from Illinois (Mr. HYDE), the committee chairman, received unanimous consent to report this bill only after he promised to recommend that the bill would be considered on the floor under an open rule, so that additional amendments could then be debated.

Unhappily, today's rule is proof that this House's leadership did not follow the recommendation of the gentleman from Illinois. The chairman of the Committee on Rules explained to us that the gentleman from Illinois did not have enough experience as the chairman to realize that he could not make a commitment about floor debate. From my personal observation, I would say that in his 23 years in the House and 8 years in the Illinois House of Representatives, the gentleman from Illinois has proved himself a master of procedure. In reality, the gentleman from Illinois' failing is his belief that the Committee on Rules, and this House's leadership, would respect him enough to honor his recommendation as chairman of the Committee on the Judiciary.

So instead of the open rule, we have this rule that makes in order only 12 of the 40 amendments that were submitted to the committee. Why this curtailed consideration? Apparently after months of doing nothing on the floor of the House, the House leadership decided that only 6 hours could be spent

considering landmark legislation affecting the lives of millions of families filing for bankruptcy, and millions of creditors, many of them small businesses.

Mr. Speaker, I oppose this rule because it will not allow us to consider amendments which might have cured this bill's flaws, and allowed a bipartisan House to support it. I am particularly concerned about the 125,000 children who are owed child support from a parent who declared bankruptcy.

In its current form, this bill will have a devastating impact on the parents and children who are owed child support and alimony. It will take us back to the days when the bankruptcy code gave child support and alimony no greater priority than a television set or jewelry purchased with a credit card.

Just 4 years ago, I introduced the Spousal Equity in Bankruptcy Amendments to give priority to child and spousal support payments in bankruptcy proceedings. That legislation became law as part of the Bankruptcy Reform Act of 1994. Thanks to those and other child support enforcement reforms, child support collections have increased by 68 percent since 1992. Nevertheless, we have far to go, as America's children are still owed $34 billion a year in child support.

This bill could reverse the progress we have made in recent years. By making large amounts of consumer debt nondischargeable in bankruptcy, this bill would place money owed on a credit card at the same level as alimony and child support obligations. Under this bill, after a debtor goes through bankruptcy proceedings, he or she will still have credit card and other types of consumer debt left to pay, and those debts will compete with child support and alimony for the limited resources of the post-bankruptcy debtor.

Proponents of the bill claim that they have repaired the damage that the bill does to child support. However well intentioned, those repairs are only cosmetic. They ignore the reality that, after bankruptcy proceedings are over, the bankrupt debtor will be left with additional credit card and consumer debt. When aggressive credit card collection agencies are calling, it will be easier to pay them than the former spouse or the powerless child.

The Committee on Rules was schizophrenic on the child support issue. Some in the majority claimed the problem never existed or had been fixed by amendments, and yet had heard testimony from a Member of the majority that likened the post-bankruptcy situation to a shark joining the sardines. That Member argued that without a procedure for enforcing the post-bankruptcy priority that the bill claims to establish, credit card companies will greatly overpower the competing claims of children needing support. Clearly this issue is not resolved.

The rule does make in order an amendment by the gentleman from Florida (Mr. SHAW) on this subject. But early analysis from bankruptcy experts shows the Shaw amendment is unworkable for both creditors and those claiming child support. It will inevitably cause children who are owed child support to lose the payments that they are owed.

Several of my colleagues and I tried to offer an effective amendment to solve the problems that this bill creates for women and children. The amendment we sought to offer would have clarified the status of child support and alimony. It would have ensured that child support and alimony would be paid before unsecured debt. It would have protected against abusive reaffirmation agreements that have an adverse effect on a debtor's family. It would have prevented new kinds of credit card and consumer debt from being made nondischargeable, and thereby competing for the debtor's limited post-bankruptcy funds against child support, alimony and other priority payments. It would have provided an enforcement mechanism for the bill's protections for child support. However, we were not allowed to have our amendment on the floor.

Mr. Speaker, the bill in its current form is opposed by children's rights advocates and women's groups, who are concerned about the damage it will do to a family in crisis. It is opposed by victim's rights groups, such as Mothers Against Drunk Driving, who are concerned about the way the bill will endanger settlements owed to victims of crime; it is opposed by consumer groups, such as the Consumer Federation of America and Consumers Union; and it is opposed by judges and scholars such as the National Conference of Bankruptcy Judges, who are concerned about the integrity of the bankruptcy process.

I support efforts to reform our bankruptcy laws to make debtors responsible for the debt they incur and indeed agree that something must be done. A full floor debate such as that contemplated by the chairman and the Committee on the Judiciary would perhaps have addressed many of the problems. But the Committee on Rules chose to disregard the Committee on the Judiciary's wishes and forbid the offering of the primary amendment to cure its most obvious flaw. We should not and cannot allow the bill to turn back the clock on the progress we have made in the past few years to ensure that women and children in crisis receive the support they are owed.

Mr. Speaker, I urge my colleagues to oppose this rule. America's children are too precious for this Congress to put their future at risk. We should not allow an artificially imposed time limit to preclude a full discussion of the child support question and the other important issues raised in the bill.

By defeating the rule, we will instruct the Committee on the Judiciary to reconsider the bill and its unintended consequences, to complete its deliberation on all relevant amendments, and then bring the bill back to the full House in a perfected form.

I also notify my colleagues that I will call for a vote to defeat the previous question. If the previous question is defeated, I will offer an amendment to the rule to allow the Jackson-Lee, Slaughter, Nadler, Blumenauer Family Support Protection amendment to be considered by the full House. Our Nation's children deserve at least an hour of time on the House floor to discuss whether this bill adequately protects their interests. If we could be sure of that protection, many of us could support this bill.

Mr. Speaker, a vote for the previous question and this flawed rule means that the House is unwilling to spare an hour to make sure our children do not suffer for lack of food, clothing and shelter that child support provides. Defeat the previous question and defeat the rule.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Harrisburg, PA (Mr. GEKAS), a member of the committee and one of the most distinguished and respected Members of this body.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for recognizing my birthplace and for yielding me the time.

Mr. Speaker, I rise in support of the rule which does allow for ample time to debate the most vital issues that face bankruptcy and bankruptcy reform.

I am a witness to the fact that the chairman of the Committee on Rules and the Committee on Rules were eminently fair in the composition of the rule which is before us here today, because the chairman and the Committee on Rules rejected one or two of my own offerings for amendments to be made in order. If anything shows balance on the part of the chairman and the committee, it is that the author of the bill and the chairman of the relevant subcommittee offered amendments which the Committee on Rules rejected. One of them, by the way, I thought was going to go automatically accepted by the Committee on Rules which I crafted in accommodation to what the gentleman from Massachusetts (Mr. FRANK) and I had agreed on a certain portion of single asset, an arcane portion of the bankruptcy bill. But the point is that a rule which allows full debate on the most significant issues facing bankruptcy is one that will give us full opportunity to vent all sides of those issues.

If the minority will recall, and the gentleman from New York (Mr. NADLER) could, I think, substantiate it, in the Committee on Rules, I offered to the chairman and the Committee on Rules that we would be happy to allot whatever time is necessary for the substitute measure by the minority to be placed for debate in the full question of bankruptcy reform. So we support the rule and urge everyone to vote ''yes.''

In the meantime, the three main issues that I think will be raised during the course of the debate are A, B and C which I just want to outline and prepare the Members for a full discussion of them. One is the gateway system that we have prepared in H.R. 3150 which tests out the debtor's ability to repay some of the debt right at the first instance at the application being made for bankruptcy, the original means-test system that we have in place. That is one contentious issue. The second is, that is raised over and over again, almost to bore me at least to tears, is the one that it is the credit card and lenders that are at fault for this whole mess that we find ourselves in with 1,400,000 filings in 1997 and more bankruptcies being recorded every day even as we speak, into unheard of numbers. That is another one that we meet head-on in our discussion, because we are talking about the debtor who comes to bankruptcy. We are not talking about how he got there. It could be gambling, it could be divorce, it could be a variety of things. So the so-called fault of the lenders, which will be one of the attacks made on our bill, will be a second important issue. The third is one that is almost preposterous in its formation, having to do with somehow that our bankruptcy reform bill militates against support obligations for the children. That is simply not the case.

□ 1245

But to make doubly certain of it, we also have amendments that will raise the priority of support payments to No. 1 on the list on the bankruptcy to supplement the already existing State and Federal statutes that guarantee that support payments will have utmost priority.

With that I reiterate, let us support the rule, let us debate the amendments as they appear, and then in the final analysis let us support a sweeping change in bankruptcy reform dedicated to the proposition that personal responsibility has to be returned to our society through a change in the bankruptcy laws.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. NADLER).

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, as the gentlewoman from New York (Ms. SLAUGHTER) mentioned, this bill has been rushed to the floor beyond all prudence, and unfortunately we have not been permitted most of the important amendments. The House leadership decided that the one thing this bill did not need was close scrutiny or open debate, so they choose not to allow debate in the most important amendments offered by the minority.

The gentleman from Pennsylvania says the Committee on Rules was fair. We gave the Committee on Rules, we told them we had 12 priority amendments. One of those 12 was made in order. The American people are being cheated because they will not get the open debate and open votes on issues affecting the finances of millions of American families that they deserve.

Have credit card companies been lending recklessly? The data indicates they have. In fact, every American family's mailbox tells the same story. How many pre-approved credit card solicitations have my colleagues thrown out last week?

We had an amendment to eliminate the claims of any lender who knowingly pushed the debtor over 40 percent of his annual income in unsecured debt. That goes on all the time. It undermines the carefully made loans of other creditors. Yet these lenders want the taxpayers to help them share in the corrections with responsible collectors. That is not right, but we will not be allowed to debate that today.

We have the amendment that would have eliminated the claims for debt incurred at ATM machines inside gambling casinos. Trying to lend thousand of dollars to gambling addicts in casinos at 18 to 22 percent interest is simply immoral. We know it destroys families and causes bankruptcies and leads to other responsible lenders not being paid. Yet although the amendment had the support of the Republican chairman of the subcommittee of appropriations, the gentleman from Virginia (Mr. WOLF) who has been a leader on this issue, we will not be allowed to debate this amendment today.

The gentleman from Massachusetts (Mr. KENNEDY) had a series of amendments to deal with unscrupulous practices by some lenders, but the sponsors of this bill, for all their talk of personal responsibility, do not want to debate irresponsible lending practices so we will not have an opportunity to debate those amendments.

The gentleman from Massachusetts (Mr. DELAHUNT) had an amendment to protect the hard-earned benefits paid to our veterans, and the Social Security benefits of retirees are paid for but we cannot talk about that on the floor today.

We will not get a chance to debate the amendments sponsored by my colleague from New York (Ms. SLAUGHTER) and myself along with the gentlewoman from Texas (Ms. JACKSON-LEE) the gentlewoman from Connecticut (Mrs. KENNELLY) and the gentleman from Oregon (Mr. BLUMENAUER) to protect child support collections from the terrible effects of this bill because the majority is afraid to have these issues come before the American people. Instead we will get another sham amendment crafted by the promoters of this legislation which will again pretend to fix the problem, the same problem they had first denied existed, then proclaim to have fixed in committee and will now try to fix again. But we will not be able to debate any real solution.

I did have an amendment made in order which implements changes recommended by the National Bankruptcy Conference of the Small Business Administration. The bill threatens to force thousands of small or medium-sized businesses into liquidation, out of business, bury the jobs, because they will be buried under a mountain of paperwork and bureaucratic rules and deadlines that will not apply to big business, only to small business. No, this bill's special ruse is small business. It will cost jobs and destroy the dreams of small business people.

How much time do we get to debate the future of small business in country? Five minutes on each side. That is all the Republicans think small businesses deserve before Congress buries the small businesses. But do not worry. The next time the majority wants to kill an environmental protection law, they will tell us they are doing it to save small business. Before we believe them we should remember what they did today.

I regret that we have not been able to work in a more bipartisan basis. I was pleased by the progress of negotiations which the staff conducted over several weeks which seem to be yielding a reasonable and principled compromise. But unfortunately that good work will not see the light of day. One day we were told suddenly the negotiations were off and everything we had talked about was off the table.

We are getting yesterday's news, the same wish list from the credit card companies. They have spent a bundle lobbying this one. As my colleagues know, the New York Times today says $40 million. I am not so naive as to think middle-class families on the brink can compete with a $40 million lobbying effort by the Nation's biggest banks and credit card companies.

Mr. Speaker, this is no way to rewrite the code. It is simply legislative malpractice. I believe this bill is not ready and the record is incomplete.

Mr. Speaker, I know how to count, and I know the majority has the votes to pass this embarrassment today. The minority will do what we ought to do, point out the weaknesses in the bill and suggest corrections. But I am under no illusions about the outcome. All I can observe is that this is a pretty shameful way to celebrate the centennial of the Bankruptcy Act, and that if, God forbid through some foolishness this bill makes it into law, we will hear a year or 2 from now the cries of the thousands and thousands of small businesses and middle-income and low-income people who will be buried by this bill, and then we will have to start undoing the handiwork we do today.

Mr. MCINNIS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Speaker, I rise in support of this rule, and I rise in support of this bill, H.R. 3150.

Is it a perfect rule? No. But is it a responsible rule? Yes.

As my colleagues know, it is time for us to have fundamental reform of our

Nation's bankruptcy, and it should be guided by 3 basic principles: restoring responsibility, protecting consumers and then sharing fairness. H.R. 3150, which preserves a historic fresh start for those who truly need it is a solution.

Our Nation is witnessing an unsustainable soar in personal bankruptcies. Bankruptcies have increased by more than 400 percent since 1980 with one more million personal bankruptcies filed in 1996. Last year alone, despite a booming economy and low unemployment, a record 1.3 million people filed for bankruptcy, more than 1 in every 100 American households.

The overwhelming majority of Americans who pay their bills on time are the ones who are paying the price for this surge in bankruptcy. It takes approximately 33 Americans to pay for one bankruptcy, and bankruptcy will cost each American household an estimated $400 per year in higher prices for goods and services.

We must restore a sense of responsibility to our bankruptcy system and stop it from becoming a first step rather than a last resort. More and more people are choosing bankruptcy as a financial planning tool, and responsible Americans are the ones who are forced to pick up the tab from those who walk away from their debts.

Mr. Speaker, 3150 would restore personal responsibility and fairness to our bankruptcy system. The bill would amend the bankruptcy code and employ a needs-based approach where debtors in need get relief but only the relief that they need. Anyone earning an amount equal to or above the Nation's median income and are able to pay at least 20 percent of his or her unsecured debt over the course of 5 years would be forced to comply with Chapter 13 which requires a repayment plan rather than Chapter 7. H.R. 3150 provides tremendous flexibility, and in turn it needs, allows, the court to consider extraordinary circumstances such as medical costs or sudden loss of employment.

Most Americans agree that the time has come for meaningful and fair bankruptcy reform. Please join me in supporting this rule and this important piece of legislation so that our bankruptcy system can be approved for all Americans.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. Edwards).

Mr. EDWARDS. Mr. Speaker, I speak as someone who had hoped to support a bipartisan measure to deal with a problem of increasing bankruptcies in America. But I am disappointed in the result of this bill. Specifically this bill would undermine the Texas constitutional protection for family homesteads. It is disappointing to me that in a Republican-led Congress that has paid a lot of lip service to the concept of States' rights, this bill would run roughshod over the States' rights and the property rights of Texas and 5 other States: Florida, Kansas, Oklahoma, Minnesota and South Dakota.

Mr. Speaker, there can be no more personal property right that a State can try to protect than the right of one's own home, and I am deeply disappointed that the leadership in this House refused to recognize our 6 States' efforts to protect that important property right.

Let me say also, if this bill is about personal responsibility, it misses the mark because nowhere in it do I find any effort to ask multibillion dollar credit card companies to face their responsibility for having increased consumer debt by billions of dollars through unsolicited credit card mailings and through unsolicited increases in credit card limits.

I will finish with a personal note. When my mother, my 74-year-old mother, died 5 years ago, I went to her one-bedroom apartment in Houston to collect her things and found on the kitchen table letters from credit card companies on one hand saying, ''You are 2 to 3 months late in your payments,'' and on the other hand on the same table found those same credit card companies and others saying, ''Congratulations, we're increasing your credit card limit by thousands of dollars.'' I believe this bill failed in its responsibility to make not only American families but also American corporations face the responsibility for the serious problem that has been created.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Well, to my colleague from Texas (Mr. EDWARDS), I used to be a police officer, and I never recall ever being asked to respond to a situation where somebody claimed they were forced to use their credit card.

My colleagues know there is personal responsibility. Of course people, as we know, when we buy a car we always have people trying to sell us another car, but does that let us say, well, I do not need to pay for the car I originally bought because somebody else wants to sell me an additional car? I mean, it just does not make logical sense.

Because of the time restriction, let me go on to a couple other points, and, Mr. Speaker, I control the floor. To the previous remarks made on the amendments submitted, let us talk about the fairness of the Committee on Rules. I think there has been a little misdirection here. We had 39 amendments, 39 amendments submitted to the Committee on Rules. The chairman of the Committee on Rules has said repeatedly he wants to make it as fair as possible, but he also has to manage this rule. Of the 39 amendments, 11 Republican amendments, 27 Democratic amendments, 12 amendments were made in order.

Now several of the amendments were repetitive. Of the 12 amendments that were made in order, 5 of them were Republican, and by the way the Republicans control the majority of this committee, and 6 of them by the minority of the committee were made in order for the Democrats. In other words the Democrats got one more amendment than the Republicans did, and then one bipartisan amendment was made as well.

The other issue that I think is critical is that the gentleman from New York stood up, and frankly I question about some of the whining because I think this has been a very, very fair approach. His statement was that the Democrats had 12 priority amendments and that the Republicans only made one in order. I do not know where he was. I thought he was in the committee. Physically he was at the committee last night, but that is not what occurred in his presence. In his presence what occurred is that the Democrats had 7 priority amendments, and we made 3 of them in order, 3 of them. And let me add again that the Democrats have one more amendment in order on this bill than do the Republicans.

Mr. Speaker, I reserve the balance of my time.

□ 1300

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I hope the American people heard the gentleman point out on this floor that he does not consider the credit card companies in any way responsible for the billions of dollars in debt that have been increased, to a large extent because they have sent out easy credit cards, unsolicited credit cards, to teenagers and senior citizens. According to his philosophy of personal responsibility, I guess drug dealers should not be held responsible for the drug problem in America, because nobody forced those people in America to use drugs. If that is the kind of personal responsibility that is behind this bill, I do not want any part of it.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take it from the comments of the gentleman from Texas (Mr. EDWARDS) that he associates small business people, which I have a lot in my district, with drug dealers. Is that what the gentleman is saying, because they came and charged in the store for some reason, it is the store merchant's responsibility? It is the small businessman in my district's responsibility if somebody comes in and charges something in their store and does not pay for it?

I would say to the gentleman from Texas (Mr. EDWARDS), there is a time in this country to accept personal responsibility. If you cannot afford it, do not buy it; and if you do buy it and you cannot afford it, do not blame it on the merchant.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, nothing needs to be said about this bill, other than it is a bankrupt bill and it is bankrupting America.

I stand to oppose this rule for the children of America. 325,000 bankruptcy filings are based upon child support and alimony payments. This rule and this particular legislation disregards the importance of protecting our children at risk. What it does is it takes the multibillion-dollar credit card companies and it puts them at equal level to those parents trying to fight every day to keep their doors open and their children alive. Yes, it is just that bad.

We tried in the Committee on Rules to present to the Republican members of the Committee on Rules an amendment, an omnibus child support amendment. The gentlewoman from New York (Ms. SLAUGHTER) has been a leader on this issue, yet that amendment has been rejected.

What do they have in its place? Something unsatisfactory. They have something that says oh, that is okay. You can put the credit card debt equal to the child support. What does that mean? Do you have time to sit and make 12 and 15 calls a day, like the multibillion-dollar credit card companies, harassing people in order to get payments? No, you do not.

So there is no equality here. We wanted to protect child support and alimony payments, so that hard-working Americans could keep their head above water.

Let me tell you what the real issue is, 3 billion contacts every day to Americans asking them to take this credit card and this credit card. I believe in personal responsibility. I want people to pay their bills, and Americans pay their bills. Today they wait when the debt is 125 percent of income. They do not recklessly go down to the bankruptcy courts. In fact, no one throws a party on their neighborhood block when they have to go to the bankruptcy court.

I tell you, this bill should go back to committee, with only five hearings. We were promised an open rule in committee, it is on the record, yet we did not get one.

This is a bad rule. Vote it down, vote for Americans, vote for working people. This is a bad, bad bill.

Mr. Speaker, I come to the floor of the House to oppose this rule. The function of the House Rules Committee is to examine amendments and make germane amendments in order, not to try to defeat the bill in the Rules Committee before it reaches the floor. This is a bad way to run this House and it undemocratic.

I appeared, before the Rules Committee with the recommendation that four of my amendments to H.R. 3150 be made in order, because I seriously question whether this bill, as it is now written, will accomplish its goal of reforming our present bankruptcy system without causing significant harm to many innocent parties. Sure, I believe that the bill in its philosophical approach and legislative function, appears to unnecessarily burden the rights of the bankrupt debtor, but in the end, my objections to this bill are much deeper than that. As a member of the Judiciary Committee's Subcommittee on Commercial and Administrative Law, who has dealt with this legislation since its inception, I have several serious reasons why I believe there should have been more of an inclusive rule for H.R. 3150. This is a bad rule and this is not democracy.

I am not shy to say that Chairman HYDE promised an open rule to the Democrats in Committee. That is exactly why the Democrats did not offer more amendments in the Judiciary Committee. Then we go to the Rules Committee with an assurance that we would get an open and inclusive rule and what we have here is a restrictive and exclusive rule. This is no way to legislate, no way to make policy, no way to run this house. It is bad for collegiality of the House, and most importantly it is bad for the country. This is a bad rule . . . and this is not democracy.

I was prepared to offer an amendment, cosponsored by Rep. SLAUGHTER of New York, a Member of the Rules Committee which would have completely corrected certain serious problems in the bill. First of all, the amendment would protect child support and alimony payments in a Chapter 7 or Chapter 13 bankruptcy proceeding by excluding these payments from the definition of ''current monthly income'' in the bill. Secondly, the amendment would ensure that all priority payments like child support and alimony would be paid before any unsecured creditors, whether it is mandated as a part of the means test or as a nondischargeable credit card debt in Chapter 7 or in Chapter 13 repayment plans. Third, the amendment would strike all sections of the bill that make unsecured or credit card debt competitive with child support and alimony payments. And finally, no presumably nondischargeable debt owed to a credit card or credit lending institution can be collected if in good faith it is believed that its collection would impede upon an individual's ability to meet child support or alimony obligations. These provisions, in particular, would finally make H.R. 3150, a ''woman and child'' friendly, rather than, a ''woman and child'' adverse piece of legislation.

The only amendment allowed to be offered on the floor of the House which remotely speaks to child support is the Boucher-Gekas amendment which does not accomplish as much as the Jackson-Lee/Slaughter amendment. While it moves child support and alimony obligations from seventh priority to first priority during the bankruptcy proceedings, the child support debts must still compete with the credit card debts, or unsecured creditors. Listen to me colleagues, the mothers and children must still wait in line for the big corporations to be paid, or compete with them since those debts have become non-dischargeable debt. This is a bad rule and this is not democracy.

That is why I am hoping that Members will vote for the Nadler/Meehan/Berman/Jackson-Lee Substitute amendment because it strikes Section 141 of the bill which would thereby eliminate new non-dischargeable status for these credit card and other debts which would compete with alimony and child support. This is bad rule and this is not democracy.

Now my colleagues, let me tell you a little about the Means Testing provision in this bill. It is not a means test, it is just a mean test. The bill's mean Means testing would bar anyone earning the nation's median income—about $51,000 for a family of four—from using Chapter 7 proceedings if they could pay off all secured debt, such as a home mortgage or car loan, and 20 percent of unsecured debt, such as credit card bills, over three to five years.

I offered an amendment with Chairman HYDE which passed that would make the Means testing more fair. This amendment was not made in order and not allowed to be offered on the floor. This is a bad rule and this is not democracy. First Lady Hillary Rodham Clinton said in a May 7th article:

> I have no quarrel with responsible bankruptcy reform, but I do quarrel with aspects of the bill (H.R. 3150) that would force single parents to compete for their child support payments with big banks trying to collect credit card debt. . . Any effort to reform the bankruptcy system must protect the obligations of parents to support their children.

This is a bad rule, and this is not democracy. I urge my colleagues to oppose this rule, and vote ''no'' on the rule for H.R. 3150.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it amazes me to hear the gentlewoman from Texas talk in such a manner as she does. It takes all responsibility away from the person who goes in and purchases the product.

My question to the gentlewoman would be, has she ever been the recipient of a bankruptcy? In other words, has she ever been the creditor? I was.

When I first got out of school, I had my little business. I had three small children and my wife. My wife and I were struggling. We rendered the service. You know what? The person walked out on us, for a bankruptcy of convenience.

So you can give all these sorry stories and sob stories, but, let me tell you, there is the other side of the story. In your statement you need to be there and reflect on the other side of the story. And there is nothing, nothing wrong with personal responsibility in this country.

Now, for the second point made by the gentlewoman from Texas about the unfairness of this, how it ought to go back for more hearing. Let me say, I know the gentlewoman, to her credit, comes to the Committee on Rules on a regular basis. This bill has had over 60 witnesses. Every interest group I know has testified either in committee or had opportunities to testify somewhere in the process of this. This is not something that fell out of the sky.

There are a lot of people out there that are suffering. There are a lot of people that are suffering, not because they went and bought something they knew they could not afford. There are a lot of people who, on good faith on a person's word, sold them something, and the person did not keep their word.

Let me give you an example. Come to my office. I invite the gentlewoman

from Texas to my office, room 215, Cannon Building. You will see a bull elk in my office. Do you know where I go got that? I represented a woodsman, and this woodsman owed me about $5,000 personally. I loaned the money. He never paid me.

I told him, I said, ''You gave me your word.'' He said, ''I gave you my word.'' I said, ''Are you going to declare bankruptcy?'' He said, ''No, I am going to give you something of value.'' He brought me in this bull elk. He kept his word.

The other issue that is critical, and this is nothing but a diversionary tactic, is this child support thing. Let me repeat this very quickly. The President of the California Family Support Council says, ''H.R. 3150 contains a wish list of provisions which substantially enhances our efforts to enforce support obligation during the bankruptcy of a support obligor. It closes many of the loopholes which currently exist in bankruptcy and which greatly hamper our efforts to enforce support,'' speaking of child support, ''debts, when a debtor has other creditors who are also seeking participation in the distribution of the assets of the debtor's bankruptcy estate.''

That letter was sent to the chairman. I would be happy after their turn to yield a couple of minutes to the gentleman from Pennsylvania (Mr. GEKAS). I would like the chairman to go into a little more detail about that hearing a couple of minutes from now. Let us address that.

I do not want one diluting the importance of this bill by some diversionary tactic by saying, well, this takes away from child support. It does not. The rule is fair. We ought to pass the rule and pass the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I appreciate the sincerity of the gentleman. But just as he has his beliefs, I have my facts. The facts are that the amendments do not correct the imbalance between credit card and child support. You have to fight the credit card companies to get your child support.

The other fact is that 60 percent of those who file bankruptcy have been unemployed in the last couple of months. We want personal responsibility. In fact, we have supported an amendment that would study why small businesses go bankrupt or are not being paid.

This bill needs to go back for hearing so that we can bring forth a true bipartisan bill that would answer your concern and truly commit us to personal responsibility.

Ms. SLAUGHTER. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. BENTSEN).

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, I rise against the rule. Once again, it appears that the average Members of the House, Republicans and Democrats, cannot be trusted to legislate, even though that is what we were sworn in to do. The Committee on Rules and the Republican leadership of have decided what amendments will be made in order. The gentleman from Colorado says the chairman of the Committee on Rules needs to have a managed rule so he can manage this bill through.

I am not sure what the hurry is. I guess because we have to get out for another recess. This has been a Congress more of recesses than a Congress of action, even on important issues like bankruptcy reform.

I actually agree with the gentleman on a lot of it. I actually would tell the gentleman on his situation, he probably would have done better to ask for a promissory note than a bull moose head for his wall. But, nonetheless, let us go forward.

The problem with this bill and the problem with this rule is the Republicans for so long, since I have been in Congress, have always been talking about returning powers to the States. But this bill in sections 181 and 182 preempt State law with respect to the State constitutions dealing with homestead, particularly in my home State of Texas.

Let me read a letter from the Governor of Texas, Governor Bush, along with the Lt. Governor Bullock and Speaker James E. ''Pete'' Laney. ''We strongly oppose Congress' effort to pass this legislation with the inclusion of the $100,000 homestead cap. The homestead cap is a clear violation of states' rights with regard to State private property laws. State and local government participation should be maintained in Federal bankruptcy law.''

Mr. Speaker, I will include the whole letter for the record.

Mr. Speaker, this is the whole point. Here we are talking about returning power to the States on one day, and then the next day we are taking it back away from them, whatever is most convenient for whatever our goals may be. To rush this legislation through, again, I agree with the gentleman on most of this, but for some reason, we cannot trust the 435 Members of this body to go through, spend the time, debate the amendments and bring up various amendments. We can all think. We all have the same power, or should have the same power to offer amendments.

But this leadership, which cannot figure out what direction it is going in, has now come up with the rule that mirrors the strategy of this leadership, whether it is busting the budget by $22 billion on the highway bill, or trying to craft a budget bill that is going nowhere fast, and then debating it in the middle of the night, when nobody except people in Hawaii would be paying attention.

Apparently this is just another example of the failed Republican leadership that cannot get anything done, and now wants to change the bankruptcy laws in the most significant way in the last 20 years, and wants to do it with 1 hour of general debate, 12 amendments, 10 minutes on what we are going to do with State homestead laws. I think that is ridiculous, and it is a real shame for this body to consider this.

STATE OF TEXAS,
OFFICE OF THE GOVERNOR,
Austin, TX June 2, 1998.

HON. HENRY HYDE,
Chairman, House Judiciary Committee, Washington, DC.

DEAR CHAIRMAN HYDE: The House Judiciary Committee and Senate Judiciary Committee have included in their respective bankruptcy reform bills (S. 1301 and HR 3150) an amendment that would place a monetary cap of $100,000 on the amount of homestead equity individuals can protect from bankruptcy foreclosure proceedings. We are writing to express our opposition to the amendment and let you know how greatly it could affect Texas residents.

The Texas homestead provisions, included in the Texas Constitution, exempt a Texas resident's homestead in the event of a declared bankruptcy and place no monetary restrictions on that property. The Texas law does provide certain restrictions, such as limiting homestead property to one acre in urban area and 200 acres per family in a rural area. By placing a monetary cap of $100,000 on the amount of equity individuals can protect from foreclosure, the amendment to both bankruptcy reform bills would preempt the Texas Constitution.

We strongly oppose Congress' efforts to pass this legislation with the inclusion of the $100,000 homestead cap amendment. The homestead cap is a clear violation of states' rights with regard to state private property laws. State and local government participation should be maintained in federal bankruptcy law.

Thank you for your consideration.

Sincerely,

GEORGE W. BUSH,
Governor.
BOB BULLOCK,
Lt. Governor.
JAMES E. ''PETE'' LANEY,
Speaker.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

The gentleman from Texas, I realize that late nights offend him because he would prefer to be at the golf course. But the fact is the reason the Republicans run these late nights is because we have got a lot of work to do, and the gentleman can participate in that work.

Second of all, in regards to the gentleman's comment about my bull elk head, I would be happy to take a promissory note from the gentleman for the amount, because I know he will pay. I know he will not take the bankruptcy for convenience.

I kind of assume the gentleman is going to ask me to yield time. I will preempt that and say no, the other side can yield the gentleman time if he would like.

Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, while the gentleman from Texas is on his feet, I had informed him and reinformed him, as I know the gentleman is aware, that an amendment that we intend to offer will satisfy the complaint of the Governor of Texas as to the current exemption base that is listed in the bill. We are trying to accommodate the State of Texas and the State of Florida and others who want to retain their homestead exemption.

When the question occurs about whether or not our bill treats child support cruelly or handsomely, depending on the point of view, I must reiterate something that the gentleman from Colorado had begun to articulate. The support enforcement communities around the Nation, New York, California, Virginia and others, have stated that they are in full support of what we are attempting to do in 3150 with respect to the privatization of support payments.

Here is a letter from the California Family Support Council, to which the gentleman from Colorado has alluded. We have a letter from the City of New York which thanks us for the provisions that we have in 3150 as to support, making it easier for them to collect support.

What is left unsaid in all of this, which I am going to iterate and reiterate as often as I can, is that the vast majority, 95 percent, of child support issues are raised in a court order situation in which the court orders support payments to be made by X, and no matter what happens in bankruptcy court or any other court, they are enforced over the year with the marshals and the jails and the sheriffs and the bailiffs, a whole system to enforce the court orders on support.

□ 1315

Nothing that we will do over on the bankruptcy side is going to harm their ability to enforce support payments. But insofar as, through some happenstance, that the child support that escapes the court system that is set up to enforce child support leads to consideration of that same issue in bankruptcy, we take extra pains to prioritize the support payments even in those few cases comparatively that the bankruptcy court must deal with with respect to support.

The amendments that we are going to offer will even go farther and set the priority with which no one could quarrel on support.

Mr. MCINNIS. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman of Texas (Mr. BENTSEN) to explain the allegation he would rather play golf at night than work.

Mr. BENTSEN. Mr. Speaker, first of all, I do not play golf. Second of all, I was unaware you could play golf at night. I would in many evenings rather be home with my children. But I do not recall the gentleman being on the floor at 12:30 in the morning when we were debating the Republican budget resolution, because I was here debating against the $10 billion cuts my colleagues want to make in veterans programs and the cuts they want to make in education. I just wanted to clarify that.

To my colleague, the gentleman from Pennsylvania (Mr. GEKAS), and I would yield if I had the time, it would be unprecedented, I know, in my time in Congress that anybody would yield to the other, is that I do want to work with the gentleman, as I said. But the fact is it is unprecedented action that my colleagues are taking at preempting State homestead laws in this bill. For the record the Governor of Texas has said they are for the amendment, but they take no position on the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, as a general supporter of this bill, I did want to express my dismay at that attack on the gentleman from Texas. That remark about playing golf at night certainly does not grant this debate any reasonable weight.

Mr. MCINNIS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. No, just as the gentleman, having made the attack on the gentleman, would not yield to him, I certainly would not yield at this point.

I do want to say to my colleagues, while I generally like the bill, I also wanted some amendments, but they are following the wrong course. What we should do, and we can still do it, offer these as amendments to the campaign finance bill, because the same Committee on Rules that would not allow amendments to the defense bill and shut off reasonable amendments to this bill, and I regret that as a supporter, this same Committee on Rules has made more amendments in order to the campaign finance bill than I think it has made in order for all other bills that have come up in this Congress.

So given what the Committee on Rules has done, the Committee on Rules is actually out shopping for nongermane amendments. So while we have to do this very important bill in a quick-time operation, Members who, like myself, had good amendments to this bill which were germane to this bill and were shut out, despite, in some cases, assurances that we would get them in, make them nongermane amendments to the campaign finance bill.

Follow this pattern. Go to the Committee on Rules. Make any amendment we want to bankruptcy a nongermane amendment to the campaign finance bill. Not only will it be made in order, but we will have unlimited debate time.

It does seem to me, when we are judging the seriousness of purpose and fairness of procedure, to compare these. Here is the campaign finance bill. Here is the bankruptcy bill. The bankruptcy bill is a very important bill. It will have a significant impact on this country, and I am generally in favor of it.

But we get amendments killed by the Committee on Rules, presumably on the direction of the leadership. We get amendments with only 10 minutes to debate. Then we get the campaign finance bill where amendment upon amendment, as far as the campaign finance bill is concerned, germane is Michael Jackson's brother.

The whole concept that has always been at the core of the House of Representatives that an amendment should be germane to the bill has been thrown out the window.

So I have to say I am particularly dismayed as a supporter of the basic concept of this bill to see a rule come forward which does violence to fair debate in this particular instance and then makes a mockery of it elsewhere. Then the gentleman from Texas is, I think, unfairly impugned for complaining about it. So I urge people to vote against this rule.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to the gentleman from Massachusetts, let me tell him, the golf comment was preceded by a comment from the gentleman from Texas regarding recess period and a few other things. He speaks, on which is pretty typical with his approach, speaks on one hand for the microphone about bipartisanship and cooperation, and I want to help you, and then, on the other hand, spends the rest of his time attacking the Republican leadership and the Republican efforts to, in this particular bill, say, look, it is not wrong in this country to say you have to accept personal responsibility. It is not wrong in this country to say, if you are going to buy something, you have got to pay for it. It is not wrong in this country to say, when you owe somebody money, when you gave them your word, your word that you are going to pay for it, keep your word and pay your bills.

It is always this party that feels very strongly when we have somebody that comes up in a hardship case, let us say somebody gets a cancer, they are uninsured, they are down on their luck. I mean, that is what it is designed for.

But as is typical, the liberals have taken advantage of it, taken bankruptcy way beyond what its original intents were, and now we have a system of convenience. Look, go ahead, charge everything you want. Take every credit card you want. If you are worried about paying your bills, file bankruptcy. It does not matter. You are not shamed in the community. You do not have to worry about anything. That kind of behavior should not go on.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentlewoman from New York for yielding to me.

Mr. Speaker, I guess I want to pick up on that theme of responsibility. We are going to hear, I am sure, much about responsibility today, personal responsibility.

But I also wanted to pick up on an observation made by the gentleman from New York (Mr. NADLER) in terms of congressional responsibility. There is no doubt that this particular proposal has rushed through the legislative process, unlike any proposal in my limited experience.

I dare say, as I talk to colleagues throughout and listen to the statements that have been made, there have been fewer hearings on this. The rush to bring this proposal to the floor was such that it is interesting to read the committee report in terms of the cost estimate. I want to take the time to read it. This is the majority report.

''The estimate of the Congressional Budget Office was not available at the time of this report. The committee believes that the enactment of H.R. 3150 will not have a substantial budget effect for the fiscal year 1999 and subsequent years.''

Well, guess what? They were wrong. They were wrong to the tune of $300 million over the course of the next 5 years. That is 300 million taxpayer dollars.

As the debate unfolded earlier on the issue surrounding the point of order, the ranking member, the gentleman from New York (Mr. NADLER), was correct when he said, in terms of the impact of these mandates under H.R. 3150 will cost the private sector over $1 billion, over $1 billion.

The gentleman from Colorado indicates his concern about private mandates. The CBO estimates that the impact on the private sector will be in excess of $1 billion over 5 years. But we are in such a rush to secure passage of this legislation that the point is bring it to the floor, get it done, limit debate.

This is not responsibility. This is not a responsible legislative process. We, too, have a collective responsibility. Let us call it congressional responsibility. I urge that the rule be defeated and the bill also be defeated.

Mr. MCINNIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to the gentleman from Massachusetts, first of all, as a suggestion, I think he has got his, with good intent, but I think his facts are wrong. I would suggest that he visit with the gentleman from Ohio (Mr. PORTMAN) on our side, and the gentleman can talk to him about his concern he has got on unfunded mandates.

What especially bothers me, though, about the gentleman's comments, he talks about, in his short career up here, about how this bill has been rushed more than any other bill. I am not sure where the gentleman has been. I realize he is busy.

Let me tell the gentleman, there have been lots of hearings on this bill. Let me just read it. With regard to H.R. 3150 alone, the subcommittee held four hearings. Over the course of those hearings, more than 60 witnesses representing a broad cross-section of interest and constituents in the bankruptcy committee testified. Nearly every major organization having an interest in reform had an opportunity to participate in these hearings.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GEKAS) if he would just comment about the comments just made by the gentleman from Massachusetts how this bill was rushed to the floor, no chance for input, and so on and so forth.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I have been amused by listening to the litany of criticisms about how we rushed through it. Comparisons were made about what happened with the 1978 bill that finally became law.

Prior to 1978, the opposition is pleased to say, they had 5 years to work on a bankruptcy bill that became the bankruptcy bill of 1978. That subcommittee and that committee that worked on it for 10, 12, 15 days. After 5 years, they still had a markup with new ideas and new proposals to consider even through the markup stages of the subcommittee and the full committee. So even with the 5 years, they were not ready at the final moment to have a final bill, just like we did not.

We have new ideas, new circumstances occurring all the time. But the main themes of this bankruptcy reform bill were born of the 1,400,000 unexplained filings and our society being drenched in debt of individual debtors who, in some cases, could repay some of the debt. We believe that enough time has been devoted to it.

Moreover, even during the time that we had, we had the benefit of the Commission report, the Bankruptcy Commission. So we had a body that had worked on 2 years' worth of investigation and testimony and hearings on the bankruptcy. So we incorporated that.

All of a sudden, we can see, if the gentleman from Massachusetts will acknowledge, we already had, by adopting some of the recommendations of the Bankruptcy Commission, 2 years of work put right into 3150. That is not speeding up or rushing.

In addition to that, we had the hearings that the gentleman from Colorado has mentioned and the number of witnesses. But beyond that, we had tremendously intricate consultations with people in bankruptcy, from debt organization standpoint, from consumers standpoint, bankruptcy trustees, bankruptcy judges, conferences, Chambers of Commerce, you name it, credit unions.

The credit unions are anxious for the passage of this bill. Their whole system is being attacked daily by the number of filings that they see within their system. They want this bill passed, and so do we.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, the subject of bankruptcy should not be a partisan issue. It never has been in the history of this House. It should not be today or in the future. There should be no Republican perspective or Democratic perspective on this issue.

In 1994, Congress established a Commission to study and recommend changes to the bankruptcy law. The Commission issued its report last October. This bill comes to the floor today without the inclusion of the great, great majority of the recommendations of that Commission.

☐ 1330

It comes with this many amendments having been offered before the Committee on Rules, a total of 45 proposed amendments, and it comes under a rule under which only 12 of those proposed amendments will have the benefit of debate in this House.

These are important proposed amendments that were left out. One excludes veterans' and Social Security benefits from the calculation of current monthly income for the purposes of bankruptcy or means testing under this bill.

One provides that a residential landlord would be required to seek relief from the automatic stay, as are other creditors seeking such relief, before being able to move to evict a residential tenant who is elderly or disabled or who is a veteran.

These are important amendments that the Committee on Rules has said to this House, we are not going to allow the democratic process to work its will. We are going to close off debate.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. I think it is important to note, Mr. Speaker, for the record, in response to the chairman of the subcommittee, that upon an inquiry by me to the chairman of the National Bankruptcy Commission, I asked him about necessary data.

I said, and I am quoting, ''Every commission was frustrated by the absence of reliable data dealing with the bankruptcy process. Please communicate with the CBO, with the GAO, and get that data before you take action.''

I sent that letter, it was signed by other Members, and we are still waiting for that result. But here we are today, on the floor of the House without the evidence and the data that is necessary.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of my time.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks and include extraneous material.)

The SPEAKER pro tempore (Mr. DUNCAN). The gentlewoman from New York (Ms. SLAUGHTER) is recognized for 30 seconds.

Ms. SLAUGHTER. I urge Members to vote no on the previous question, Mr. Speaker. If the previous question is defeated, I will offer an amendment to the rule that will make in order an amendment that will improve the bill's provisions that weaken child support, alimony, and victims' protections under bankruptcy.

Mr. Speaker, I urge a no vote on the previous question.

Mr. Speaker, I include for the RECORD information on the vote on the previous question and other material.

The material referred to is as follows:

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's *Precedents of the House of Representatives,* (VI, 308–311) describes the vote on the previous question on the rule as ''a motion to direct or control the consideration of the subject before the House being made by the Member in charge.'' To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that ''the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition'' in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: ''The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.''

Because the vote today may look bad for the Republican majority they will say ''the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution * * * [and] has no substantive legislative or policy implications whatsoever. But that is not what they have always said. Listen to the Republican Leadership *Manual on the Legislative Process in the United States House of Representatives,* (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: ''Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule * * * When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment.''

Deschler's *Procedure in the U.S. House of Representatives,* the subchapter titled ''Amending Special Rules'' states: ''a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.'' (Chapter 21, section 21.2) Section 21.3 continues: ''Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.''

The vote on the previous question on a rule does have substantive policy implications. It is the one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

PREVIOUS QUESTION ON H.RES. 462—H.R. 3150—BANKRUPTCY REFORM ACT

At the end of the resolution add the following new sections:

''SEC. 2. Notwithstanding any other provision of this resolution, it shall be in order to consider the amendment specified in section 3 of this resolution as though it were after the amendment numbered 11 in House Report 105–573. The amendment may be offered only by Representative Jackson-Lee of Texas or her designee and shall be debatable for 30 minutes.

''SEC. 3. The amendment described in section 2 is as follows:

Page 6, line 11, insert the following before the 1st semicolon: '', but excludes (1) maintenance for or support of a child of the debtor, received by the debtor and (2) current alimony, maintenance, or support paid by the debtor for the benefit of a spouse, former spouse, of child of the debtor'';

Page 16, after line 25, insert the following (and make such technical and conforming changes as may be appropriate):

(A) in paragraph (2) by inserting ''before any unsecured claim is paid,'' after ''cash payments'';

Page 17, strike line 15 and all that follows through ''1326(b);'' on line 24, and insert the following:

''(i) that all claims entitled to priority under section 507(a)(7) are paid in full before any nonpriority unsecured claim is paid;

''(ii) that, to the extent not inconsistent with clause (i), payments to unsecured nonpriority creditors who are not insiders shall equal or exceed $50 per month of the plan;

''(iii) that, during the applicable commitment period, the total amount of plan payments on account of unsecured nonpriority claims shall equal the monthly net income of the debtor multiplied by the number of months in the commitment period less payments pursuant to section 1326(b); and

Page 18, line 14, strike ''(iii)'' and insert ''(iv)''.

Page 18, line 24, strike ''(iv)'' and insert ''(v)''.

Page 48, after line 13, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 119B. PROTECTION AGAINST REAFFIRMATION AGREEMENTS ADVERSELY AFFECTING CHILD SUPPORT.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

''(i) Notwithstanding any other provision of this title, an agreement of the kind described in subsection (c) shall be void unless the court determines that such agreement will not have an adverse impact on the ability of the debtor to support a dependent of the debtor.''.

Page 54, line 15, insert '', but includes any tangible personal property reasonably necessary for the maintenance or support of a dependent child'' before the semicolon.

Beginning on page 65, strike line 16 and all that follows through line 25 on page 66 (and make such technical and conforming changes as may be appropriate).

Page 68, strike lines 8 through 23 (and make such technical and conforming changes as may be appropriate).

Page 72, strike line 2, and insert the following: at the end and inserting a semicolon; and

Page 72, strike line 9, and insert the following: port that are due after the date the petition is filed; and

''(8) the plan provides that all remaining debts to a spouse, former spouse, or child of the debtor, due before or after the date the petition is filed, for alimony to, maintenance for, or support of such spouse or child, or to a spouse, former spouse, or child of the debtor, to the extent such debt is the result of a property settlement agreement, a hold harmless agreement, or any other type of debt that is not in the nature of alimony, maintenance, or support in connection with or incurred by the debtor in the course of a separation agreement, divorce decree, any modifications thereof, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, but not to the extent that such debt is assigned to another entity, voluntarily, by operation of law, or otherwise (other than debts assigned pursuant to section 408(a)(3) of the Social Security Act, or such debt that has been assigned to the Federal government, or to a State or political subdivision of such State, or the creditor's attorney) shall be paid before the payment of any other debt provided for in the plan unless the beneficiary of the payment waives the obligation that such payment be made before paying such other debt''.

Page 75, line 21, insert ''(a)'' before ''Notwithstanding''.

Page 76, line 12, insert ''and any debt of a kind described in paragraph (6), (9), or (13) of section 523(a) of this title,'' before ''shall''.

Page 76, line 14, strike ''or (14)'' and insert ''or (19)''.

Page 76, line 17, strike the close quotation marks and the period at the end.

Page 76, after line 17, insert the following:

''(b)(1) For purposes preserving the priority established in subsection (a), the holder of claim for a debt of a kind described in paragraph (2), (4), or (19) of section 523(a) of this title that is not discharged may not take any action to obtain payment or collection (including engaging in any communication with the debtor or with any person who holds property of the debtor) of such debt if such holder—

''(A) knew or should have known that taking such action, or obtaining payment of such debt, would impair the ability of the debtor to pay a debt that has priority under such subsection; or

''(B) failed to verify immediately before taking such action, by good faith means designed to identify all debts that have priority under such subsection, that the debtor does not then owe any debt that has priority under subsection (a).

''(2) If such holder violates paragraph (1), such holder shall be liable to any person injured by such violation for the sum of $3000, actual damages, and a reasonable attorney's fee.''.

Mr. MCINNIS. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Colorado (Mr. MCINNIS) for 1 minute remaining to close debate.

Mr. MCINNIS. Mr. Speaker, this rule should be passed and it will be passed, and then we are going to get to have debate, and that debate is all about

personal responsibility. No matter how the Democrats want to cut it, the fact is that it is about personal responsibility, about keeping our word, about not buying something if we do not have the money to pay for it.

The previous question vote itself is simply a procedural vote, Mr. Speaker, to close the debate on this rule and proceed to a vote on its adoption. The vote has no substantive or policy implications whatsoever.

Mr. Speaker, I include for the RECORD an explanation of the previous question.

The material referred to is as follows:

THE PREVIOUS QUESTION VOTE: WHAT IT MEANS

House Rule XVII (''Previous Question'') provides in part that: There shall be a motion for the previous question, which, being ordered by a majority of the Members voting, if a quorum is present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked or ordered.

In the case of a special rule or order of business resolution reported from the House Rules Committee, providing for the consideration of a specified legislative measure, the previous question is moved following the one hour of debate allowed for under House Rules.

The vote on the previous question is simply a procedural vote on whether to proceed to an immediate vote on adopting the resolution that sets the ground rules for debate and amendment on the legislation it would make in order. *Therefore, the vote on the previous question has no substantive legislative or policy implications whatsoever.*

Mr. MCINNIS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

This will be a 17-minute vote. As previously stated on orders by the Speaker, this will be a strictly enforced 17-minute vote.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 236, nays 183, not voting 14, as follows:

[Roll No. 217]

YEAS—236

Aderholt	Baker	Bartlett
Archer	Ballenger	Barton
Armey	Barr	Bass
Baesler	Barrett (NE)	Bateman
Bereuter	Graham	Peterson (MN)
Berry	Granger	Peterson (PA)
Bilbray	Greenwood	Petri
Bilirakis	Gutknecht	Pickering
Bliley	Hansen	Pitts
Blunt	Hastert	Pombo
Boehlert	Hastings (WA)	Porter
Boehner	Hayworth	Portman
Bonilla	Hefley	Pryce (OH)
Bono	Herger	Quinn
Boswell	Hill	Radanovich
Boucher	Hilleary	Ramstad
Boyd	Hobson	Redmond
Bryant	Hoekstra	Regula
Bunning	Horn	Riggs
Burr	Hostettler	Riley
Burton	Hulshof	Roemer
Buyer	Hunter	Rogan
Callahan	Hutchinson	Rogers
Calvert	Hyde	Rohrabacher
Camp	Istook	Ros-Lehtinen
Campbell	Jenkins	Rothman
Canady	Johnson (CT)	Roukema
Cannon	Johnson, Sam	Royce
Castle	Jones	Ryun
Chabot	Kasich	Salmon
Chambliss	Kelly	Sanford
Chenoweth	Kim	Saxton
Christensen	Kind (WI)	Schaefer, Dan
Coble	King (NY)	Schaffer, Bob
Coburn	Kingston	Sessions
Collins	Kleczka	Shadegg
Combest	Knollenberg	Shaw
Cook	Kolbe	Shays
Cooksey	LaHood	Sherman
Cox	Largent	Shimkus
Cramer	Latham	Shuster
Crane	LaTourette	Skeen
Crapo	Lazio	Smith (MI)
Cubin	Leach	Smith (NJ)
Cunningham	Lewis (CA)	Smith (OR)
Davis (VA)	Lewis (KY)	Smith (TX)
Deal	Linder	Smith, Adam
DeLay	Livingston	Smith, Linda
Diaz-Balart	LoBiondo	Snowbarger
Dickey	Lucas	Solomon
Dooley	Maloney (CT)	Souder
Doolittle	Manzullo	Spence
Dreier	McCollum	Stearns
Duncan	McCrery	Stump
Ehlers	McDade	Sununu
Ehrlich	McHugh	Talent
Emerson	McInnis	Tauscher
English	McIntosh	Tauzin
Ensign	McKeon	Taylor (NC)
Everett	Metcalf	Thomas
Ewing	Mica	Thornberry
Fawell	Miller (FL)	Thune
Foley	Moran (KS)	Tiahrt
Forbes	Moran (VA)	Traficant
Fossella	Morella	Upton
Fowler	Myrick	Walsh
Fox	Nethercutt	Wamp
Franks (NJ)	Neumann	Watkins
Frelinghuysen	Ney	Watts (OK)
Gallegly	Northup	Weldon (FL)
Ganske	Norwood	Weldon (PA)
Gekas	Nussle	Weller
Gibbons	Oxley	White
Gilchrest	Packard	Whitfield
Gillmor	Pappas	Wicker
Gilman	Parker	Wolf
Goode	Paul	Young (AK)
Goodlatte	Paxon	Young (FL)
Goss	Pease	

NAYS—183

Abercrombie	Clement	Eshoo
Ackerman	Clyburn	Etheridge
Allen	Condit	Evans
Andrews	Conyers	Fattah
Baldacci	Costello	Fazio
Barcia	Coyne	Filner
Barrett (WI)	Cummings	Ford
Becerra	Danner	Frank (MA)
Bentsen	Davis (FL)	Frost
Bishop	Davis (IL)	Furse
Blagojevich	DeFazio	Gejdenson
Blumenauer	DeGette	Gephardt
Bonior	Delahunt	Gordon
Borski	DeLauro	Green
Brady (PA)	Deutsch	Gutierrez
Brown (FL)	Dicks	Hall (OH)
Brown (OH)	Dingell	Hall (TX)
Capps	Dixon	Hamilton
Cardin	Doggett	Harman
Carson	Doyle	Hastings (FL)
Clay	Edwards	Hefner
Clayton	Engel	Hilliard
Hinchey	McGovern	Sanchez
Hinojosa	McHale	Sanders
Holden	McIntyre	Sandlin
Hooley	McKinney	Sawyer
Hoyer	McNulty	Schumer
Jackson (IL)	Meehan	Scott
Jackson-Lee (TX)	Meek (FL)	Serrano
	Meeks (NY)	Sisisky
Jefferson	Menendez	Skaggs
John	Millender-McDonald	Skelton
Johnson (WI)		Slaughter
Johnson, E. B.	Miller (CA)	Snyder
Kanjorski	Minge	Spratt
Kaptur	Mink	Stabenow
Kennedy (MA)	Moakley	Stark
Kennedy (RI)	Mollohan	Stenholm
Kennelly	Murtha	Stokes
Kildee	Nadler	Strickland
Kilpatrick	Neal	Stupak
Klink	Oberstar	Tanner
Kucinich	Obey	Taylor (MS)
LaFalce	Ortiz	Thompson
Lampson	Owens	Thurman
Lantos	Pallone	Tierney
Lee	Pascrell	Torres
Levin	Pastor	Towns
Lewis (GA)	Payne	Turner
Lipinski	Pelosi	Velazquez
Lofgren	Pickett	Vento
Lowey	Pomeroy	Visclosky
Luther	Poshard	Waters
Maloney (NY)	Price (NC)	Watt (NC)
Manton	Rahall	Waxman
Markey	Rangel	Wexler
Martinez	Reyes	Weygand
Mascara	Rivers	Wise
Matsui	Rodriguez	Woolsey
McCarthy (MO)	Roybal-Allard	Wynn
McCarthy (NY)	Rush	Yates
McDermott	Sabo	

NOT VOTING—14

Bachus	Farr	Klug
Berman	Gonzalez	Olver
Brady (TX)	Goodling	Scarborough
Brown (CA)	Houghton	Sensenbrenner
Dunn	Inglis	

☐ 1351

Mr. YATES and Mr. FROST changed their vote from ''yea'' to ''nay.''

Mr. HEFLEY changed his vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 251, nays 172, not voting 10, as follows:

[Roll No. 218]

YEAS—251

Aderholt	Bonilla	Christensen
Archer	Bono	Coble
Armey	Boswell	Coburn
Bachus	Boucher	Collins
Baesler	Boyd	Combest
Baker	Brady (TX)	Condit
Ballenger	Bryant	Cook
Barcia	Bunning	Cooksey
Barr	Burr	Cox
Barrett (NE)	Burton	Cramer
Bartlett	Buyer	Crane
Barton	Callahan	Crapo
Bass	Calvert	Cubin
Bateman	Camp	Cunningham
Bereuter	Campbell	Danner
Bilbray	Canady	Davis (VA)
Bilirakis	Cannon	Deal
Bliley	Castle	DeLay
Blunt	Chabot	Deutsch
Boehlert	Chambliss	Diaz-Balart
Boehner	Chenoweth	Dickey

Dicks
Dingell
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauscher
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Young (AK)
Young (FL)

NAYS—172

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Brady (PA)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Fazio
Filner
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Skelton
Slaughter
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Wolf
Woolsey
Wynn
Yates

NOT VOTING—10

Berman
Brown (CA)
Brown (FL)
Farr
Gonzalez
Houghton
Inglis
Klug
Miller (CA)
Torres

□ 1402

Mr. SHERMAN changed his vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. DUNCAN). Pursuant to House Resolution 462 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3150.

□ 1404

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, with Mr. MILLER of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania (Mr. GEKAS) and the gentleman from New York (Mr. NADLER), each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, we are about to embark on one of the most momentous pieces of legislation that has come to the floor in a long time. And to signify the importance of the measure, we significantly begin by yielding to the gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary, he being a leader of the committee and of the effort that brings us to this point in bankruptcy reform legislation.

Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. HYDE).

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Chairman, before I talk about the bill in chief, I would like to say parenthetically that I am a little disturbed at the controversy over whether or not I kept my word in asking for an open rule. I did ask for an open rule. It was not formally asked. It was down here at the desk to the chairman of the Committee on Rules.

I did not make a commitment that there would be an open rule because that is not my prerogative. That is up to the Committee on Rules. I suppose the fact that there were 43 amendments offered at the markup was a disincentive to have an open rule, but, nonetheless, I offered to use whatever force and effect I would have to get amendments that the gentleman from New York (Mr. NADLER) wanted that were serious amendments made in order. And, again, unfortunately, because of weather, I was in an airplane yesterday afternoon coming from Evansville, Indiana by way of Cincinnati, and planes were canceled. I was not here. I just hope nobody feels I did not live up to my commitment which was to ask for an open rule. I just wanted to state that.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I just want to say, I do not doubt for a moment the integrity and the word of the gentleman from Illinois, the chairman of the committee. I am sure that he did exactly what he committed to do and asked the Committee on Rules for an open rule.

I assume he asked that the priority amendments that we asked for be made in order. I just regret that he was not more influential, perhaps, with the Committee on Rules and that they did not make more than one out of the 12 amendments that we had a priority on in order. I do not doubt for a moment nor would I ever cast aspersion on the integrity or the good word of the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman very much. I can only say, one cannot overestimate my lack of influence with some of the institutions around here.

In any event, I am pleased that the Committee on the Judiciary, after a 3-day markup in May, favorably reported bankruptcy reform legislation designed to address deficiencies in current bankruptcy processes and mitigate adverse impacts of bankruptcy filings. We recognized the importance of responding to the many developments since the Bankruptcy Code's enactment a generation ago, including a burgeoning bankruptcy case load that reached a new high of over 1.4 million filings during the 1997 calendar year.

Last September, our colleague, the gentleman from Florida (Mr. McCollum), introduced H.R. 2500, the Responsible Borrower Protection Bankruptcy Act, a bill designed in part to implement the concept of needs-based bankruptcy.

In February the chairman of the Committee on the Judiciary Subcommittee on Commercial and Administrative Law, the distinguished gentleman from Pennsylvania (Mr. GEKAS), built on this approach by introducing H.R. 3150, the Bankruptcy Reform Act of 1998.

H.R. 3150 incorporated, with modifications and additions, most of H.R. 2500's consumer bankruptcy provisions while also addressing other bankruptcy related subjects.

Our committee sought to achieve an appropriate balance between debtor and creditor rights in endorsing a needs-based bankruptcy process that would increase creditor recoveries while offering relief to deserving debtors. Those who needed an immediate fresh start would get it, but those who could afford to pay a substantial portion of their obligations out of future income before getting a fresh start would be required to do so.

Under H.R. 3150 as reported, individuals or couples with income levels equaling or exceeding national median figures that take into account family size may be ineligible, depending on certain calculations, to be chapter 7 debtors. Chapter 7 offers a fresh start, without encumbering future income, to individual debtors who are prepared to give up all of their nonexempt assets. Those denied access to chapter 7 under the pending legislation generally will have the option of making payments under a chapter 13 plan for a number of years and qualifying for a limited discharge eventually.

The chapter 7 disqualification is more limited in scope as a result of committee action raising the income threshold for disqualification from 75 percent to 100 percent of national median income figures.

The higher cutoff point, endorsed by the committee, addresses a major argument of opponents of this legislation that the needs-based formula was too harsh in its treatment of people with very limited means.

Our committee sought to ensure that family support obligations would be protected under the reported version of the bill. It adopted an amendment that I offered to prevent any dilution of the priority treatment accorded claims of spouses, former spouses and children for alimony, maintenance, or support, and also adopted four family support related amendments offered by the learned gentleman from Virginia (Mr. BOUCHER). Although this legislation was never intended to derogate from the preferred treatment of family support obligations under bankruptcy law, the Committee on the Judiciary welcomed the opportunity to take action emphasizing, in a number of contexts, its firm commitment to facilitating the fulfillment of such obligations.

In addition, as a result of a provision in the manager's amendment, the priority in distribution for support related obligations is substantially enhanced compared with current law.

I wish to commend the gentleman from Pennsylvania (Mr. GEKAS) for introducing H.R. 3150 and conducting important hearings on bankruptcy reform in his subcommittee. He is performing, as he does so often, an important public service by serving as our floor manager for this bill.

The remedial legislation before us not only covers consumer issues but also addresses business bankruptcy, tax related issues in bankruptcy, and transnational bankruptcy. It merits the support of this body.

I hope in the months ahead we will be able to point to bankruptcy reform as one of the significant achievements on a bipartisan basis of the 105th Congress.

Mr. GEKAS. Mr. Chairman, H.R. 3150 is one of the most comprehensive legislative efforts to reform bankruptcy law and practice in the 20 years since the enactment of the Bankruptcy Code in 1978. The guiding principle of these reforms has been to restore personal responsibility and integrity in the bankruptcy system and to ensure that it is fair for both debtors and creditors.

This bill represents the culmination of more than three years of careful analysis and review of our nation's current bankruptcy system. In the past year, the Subcommittee on Commercial and Administrative Law, of which I serve as Chairman, has held nine hearings on various aspects of bankruptcy reform. With regard to H.R. 3150 alone, the Subcommittee held four hearings. Over the course of those hearings, more than 60 witnesses, representing a broad cross-section of interests and constituencies in the bankruptcy community, testified. Nearly every major organization having an interest in bankruptcy reform had an opportunity to participate in these hearings.

H.R. 3150's reforms pertain to consumer and business bankruptcy law and practice, and includes provisions regarding the treatment of tax claims and enhanced data collection. H.R. 3150 also establishes a separate chapter under the bankruptcy Code devoted to the special issues and concerns presented by international insolvencies.

Why do we need needs-based consumer bankruptcy reform? The answers are not only easy, but obvious. Last year, bankruptcy filings topped 1.4 million and even exceeded the number of people who graduated college in that same year. Nevertheless, literally thousands of people who have the ability to repay their debts are simply filing for bankruptcy relief and walking away from those debts without paying their creditors a single penny under the current system.

Why do we care about creditors? Again, the answer is easy and obvious. When they don't get paid, someone suffers a loss. The only way they can make up that loss is by passing it along to us—you and me—in the form of increased prices and higher interest rates. Besides being unfair to those of us who pay our debts, the current consumer bankruptcy system at best lacks balance, at worst lacks morality and is subject to abuse.

There are two extreme approaches to bankruptcy relief: No one is allowed any bankruptcy relief or bankruptcy relief is granted to anyone who requests such relief. Our current system has become dangerously close to the latter extreme and the enormous leap in the number of bankruptcy cases being filed appear to document that.

H.R. 3150's needs-based reforms will restore balance to consumer bankruptcy law while reducing its potential for abuse. Not only will everyone in the bankruptcy system benefit from these reforms, but people like us—the corner grocer who extends credit to his neighbors, the family who's buying its first home and trying to get the lowest rate of interest for financing that purchase, the single mother who's applying for credit for the first time—are the ones who will also benefit from H.R. 3150.

H.R. 3150 is our response. It offers a balanced approach to reform with regard to consumer as well as business bankruptcy reform. In addition, as reported from the Full Committee last month, H.R. 3150 fully protects the priority treatment accorded to child support claims and fully responds to the concerns that some have expressed about this issue.

H.R. 3150 creates a debtor's ''bill of rights'' with regard to the services and notice that a consumer should receive from those that render assistance in connection with the filing of bankruptcy cases. Through misleading advertising and deceptive practices, ''petition mills'' deceive consumers about the benefits and detriments of bankruptcy. H.R. 3150 responds to this problem by instituting mandatory disclosure and advertising requirements as well as enforcement mechanisms.

In all, H.R. 3150 represents a balanced approach to bankruptcy reform with the goal of reducing abuse, promoting greater uniformity, and restoring public confidence in the integrity of the bankruptcy system.

I include the following letters of support for H.R. 3150 in the RECORD.

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, June 9, 1998.

Hon. GEORGE GEKAS,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE GEKAS: On behalf of the 600,000 small business owners of the National Federation of Independent Business (NFIB), I am writing to urge your support for H.R. 3150, the Bankruptcy Reform Act of 1998.

Small business is concerned, as many are, about the rapid increase of bankruptcy filings over the last several years. Whether their customers are other businesses or individual consumers, small businesses feel the pain to their bottom line when their customers go bankrupt. As an unsecured creditor, most small businesses never even get a chance to get back what they are owed.

A recent poll found that 77 percent of NFIB members want to make the criteria for declaring bankruptcy more stringent. Small business owners feel current law is in desperate need of reform in order to curb the abuses of the current federal bankruptcy system.

H.R. 3150 goes a long way to fight the abuses to the bankruptcy system. Most importantly, the legislation strikes a fair balance by giving small business owners more of a chance to get back what is rightfully theirs, while still providing bankruptcy protection to those small businesses who truly need it.

I urge you to give small business a chance to get what is theirs. Support H.R. 3150, the Bankruptcy Reform Act of 1998.

Sincerely,

DAN DANNER,
Vice President,
Federal Governmental Relations.

NATIONAL CONSUMER BANKRUPTCY COALITION
STATEMENT ON THE HOUSE JUDICIARY
COMMITTEE'S PASSAGE OF H.R. 3150

We are very pleased that the House Judiciary Committee today favorably reported The

Bankruptcy Reform Act of 1998 (H.R. 3150), clearing the measure for action by the full House. We also applaud Chairman Hyde and the Committee members for putting to rest any question about the priority status of child support and alimony payments in the bankruptcy process. The amendments adopted by the Committee specifically and categorically state that child support and alimony payments must be given priority in bankruptcy proceedings. There is no greater personal responsibility than meeting one's child support and alimony obligations, and we strongly support these measures to ensure that these payments are in no way affected by this legislation.

The result is that H.R. 3150 has emerged from the Committee even stronger in terms of personal responsibility and should enjoy strong bipartisan support on the House floor. We urge the full House to act upon this legislation at the earliest opportunity so that sensible, fair bankruptcy reform can be enacted in 1998. We are also pleased that the Senate plans to move forward next week on significant bankruptcy reform legislation.

H.R. 3150 will restore personal responsibility and fairness to our bankruptcy system. For too long now, our flawed bankruptcy law has provided complete debt relief to individuals who have enough income to repay at least some of what they owe. As a result, the overwhelming majority of Americans who pay their bills on time have been forced to pick up the tab—to the tune of about $400 per household—for those who walk away from their debts. This important legislation will correct this flaw by ensuring that bankruptcy filers receive only the amount of debt relief they need, no more and no less.

American Bankers Association; American Financial Services Association; America's Community Bankers; Bankruptcy Issues Council; Consumer Bankers Association; Credit Union National Association; Independent Bankers Association of America; National Retail Federation; U.S. Chamber of Commerce.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, March 2, 1998.

Hon. GEORGE GEKAS,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE GEKAS: The U.S. Chamber of Commerce—the world's largest business federation representing more than three million businesses of every size, sector and region—strongly supports bankruptcy reform legislation, specifically, H.R. 3150, the Bankruptcy Reform Act of 1998. We urge you to support this bankruptcy reform legislation sponsored by Chairman George Gekas, Representatives Bill McCollum, Rick Boucher and James Moran. H.R. 3150 will reform our bankruptcy laws and establish a ''needs-based'' system which aids all Americans who are affected by the abuses and misuses of the current code. The timing of this legislation could not be more critical.

The number of personal bankruptcy filings, which canceled approximately $40 billion in consumer debt last year, is rising precipitously. Early indications for 1997 suggest that we will see the number rise by 20 percent over the 1996 record and the amount of debt canceled rise by 33 percent. Given the strong performance of the economy during the past year, these staggering increases in filings suggest that our bankruptcy system must be reformed. Of course, the consumer debt taken off the books by the bankruptcy system is not really erased—instead, the cost is shifted to third parties such as households and businesses, in the form of higher prices and higher interest rates.

In addition to the creation of a ''needs-based'' system, the Chamber applauds the efforts by Chairman Gekas, Representatives McCollum, Boucher and Moran in addressing small business and farm bankruptcies, tax collections and single-asset realty cases, as well as inclusion of education-related provisions and protections for those who receive inadequate or improper counseling. These efforts could be key in providing the best climate in which small business can prosper.

We look forward to working with you and your colleagues on passing this legislation in this session of Congress.

Sincerely,

R. BRUCE JOSTEN,
Executive Vice President,
Government Affairs.

U.S. CHAMBER OF COMMERCE,
Washington, DC, June 8, 1998.

TO MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: The U.S. Chamber of Commerce, the world's largest business federation, representing more than three million businesses of every size, sector and region, urges you to support passage of the ''Bankruptcy Reform Act of 1998,'' H.R. 3150. This important bipartisan legislation will reform our bankruptcy laws and establish a ''needs-based'' system that will aid all Americans who are affected by the abuses and misuses of the current code.

The number of personal bankruptcy filings, which canceled approximately $40 billion in consumer debt last year, is rising precipitously. Early indications for 1997 suggest that we will see the number rise by 20 percent over the 1996 record and the amount of debt canceled rise by 33 percent. Given the strong performance of the economy during the past year, these staggering increases in filings indicate that our bankruptcy system must be reformed. The fact is the consumer debt taken off the books by the bankruptcy system is not really erased. Instead, the cost is shifted to third parties such as households and businesses, in the form of higher prices and higher interest rates.

The U.S. Chamber of Commerce believes that this bill would close a number of loopholes in the law that encourages debtors to take advantage of our current system and avoid paying their debts. The legislation would steer debtors away from the more lenient ''Chapter 7'' filing, back to ''Chapter 13,'' where courts establish timely repayment plans for those that are able to repay a portion of their debts. Repeated use of bankruptcy laws to continually walk away from debts would be severely restricted.

Because of the importance of this legislation to the business community and consumers, we may include votes on or in relation to H.R. 3150 as key votes in the Chamber's annual How They Voted ratings.

Sincerely,

R. BRUCE JOSTEN.

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, January 30, 1998.

Hon. GEORGE GEKAS,
Chairman, Subcommittee on Commercial and Administrative Law, Committee on Judiciary, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN GEKAS: On behalf of the 600,000 small business owners of the National Federation of Independent Business (NFIB), I applaud your efforts to introduce real bankruptcy reform legislation.

Small business is concerned, as many are, about the rapid increase of bankruptcy filings over the last several years. Whether their customers are other businesses or individual consumers, small businesses feel the pain to their bottom line when their customers go bankrupt. As an unsecured creditor, most small businesses never even get a chance to get back what they are owed.

A recent poll found that 77 percent of NFIB members want to put more limits on people's ability to declare bankruptcy. Small business owners feel current law is in need of reform because the federal bankruptcy system has been abused.

The Bankruptcy Reform Act of 1998 that you and Congressman Moran have authored goes a long way to fight the abuses to the bankruptcy system. It will also give small business owners more of a chance to get what is rightfully theirs, while still providing bankruptcy protection to those who truly need it.

Thank you for your leadership on this issue. NFIB looks forward to working with you as this issue proceeds through your subcommittee.

Sincerely,

DAN DANNER,
Vice President,
Federal Governmental Relations.

U.S. DEPARTMENT OF JUSTICE,
UNITED STATES TRUSTEE, NORTHERN AND EASTERN DISTRICTS OF CALIFORNIA AND NEVADA,
San Francisco, CA, May 11, 1998.

Representative GEORGE W. GEKAS,
U.S. House of Representatives,
Washington, DC.

DEAR MR. GEKAS: The Small Business Proposal, a component of H.R. 3150, the ''Bankruptcy Reform Act of 1998,'' is not an untested concept and would codify the ''best practices'' of the United States Trustees. Since January 1, 1995, the field offices of Region 17 have conducted Initial Debtor Interviews in every chapter 11 case filed. In advance of the interview, we request the debtor supply detailed financial information to our office. At the interview, we use that information to focus on the debtor's business and work with the debtor to understand what is required to emerge successfully from chapter 11. We continuously monitor the debtor's financial progress during the pendency of the chapter 11 case with particular emphasis on the debtor's continuing viability. The result of this practice is quicker, and more likely successful, reorganization for chapter 11 cases.

Please contact me if you have any questions.

Sincerely,

LINDA EKSTROM STANLEY,
United States Trustee.

THE CITY OF NEW YORK
LAW DEPARTMENT,
New York, NY, April 15, 1998.

Hon. GEORGE W. GEKAS,
Chairman, House Subcommittee on Commercial and Administrative Law, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN GEKAS: The City of New York (the ''City'') would like to thank you for your leadership in drafting H.R. 3150, the Bankruptcy Reform Act of 1998. The legislation will be of great benefit to the City because it will strengthen the ability of local governments to collect ad valorem taxes. As your Subcommittee prepares for consideration of H.R. 3150, I would like to offer my comments and suggestions on key provisions of the legislation.

The City is especially supportive of ''Title V, Tax Provisions'', which will help ensure that local governments receive more of the tax debt they are owed. Title V will also make the bankruptcy process more predictable and stable for local governments. While these changes will be very beneficial to the City, it is critical that one provision of H.R. 3150 be clarified to avoid unintentionally increasing bankruptcy filings while reducing local government revenue.

As drafted, H.R. 3150 proposes a new section, Section 511 of the Bankruptcy Code, which provides for an Internal Revenue Code rate of interest on tax claims. This provision is problematic as it does not specifically identify or limit the types of taxes subject to the proposed interest rate. Were this section limited to excise tax claims or tax claims on or measured by income or gross receipts, the City would have minimal objection that the interest rate should be the ''statutory rate'' for such taxes. On the other hand, if the bill defines ''tax'' as including ad valorem taxes, the City would have a very strong objection, as the interest rate would be significantly less than that which is charged by the City, and would, in fact, encourage bankruptcy filings by real property owners in order to obtain this more favorable rate. H.R. 3150 should specifically exclude ad valorem taxes from the definition of ''tax'' under Section 511.

The City supports the language in the Bankruptcy Reform Act of 1998 that recognizes that ad valorem taxes must be paid ahead of other debts in bankruptcy cases. The City applauds your leadership on this critical revision of Bankruptcy Code Section 724 for the protection of local government budgets. Cities are non-consensual creditors and are in a unique relationship with debtors in bankruptcy. As such, cities should be paid before other creditors in bankruptcy cases.

The City strongly supports H.R. 3150's revisions to Section 505 of the Bankruptcy Code. The legislation would provide that a challenge to real property assessment may occur only if the period of time to contest such tax did not expire by operation of law. Section 505 of the Bankruptcy Code presently allows debtors to challenge any tax covering any period of time unless such tax had been contested and adjudicated prior to the commencement of the bankruptcy case. Thus, taxes may be contested in a bankruptcy proceeding even if the statute of limitations to challenge the taxes had expired under the relevant state law. This Section is patently unfair to taxing authorities. It fosters abuse by debtors who potentially can force a government to litigate taxes which were collected years ago and had not been timely challenged. It leaves municipalities in a fiscally precarious and vulnerable position. There is no legal finality to tax challenges or stability in local government finances. Since there is no statute of limitations as Section 505 of the Bankruptcy Code is presently drafted, the changes made by H.R. 3150 to Section 505 of the Bankruptcy Code are of enormous importance.

The City supports H.R. 3150's modifications to Section 342 of the Bankruptcy Code that would require a debtor to submit necessary information for creditors, such as taxpayer identification numbers, and parcel numbers for blocks and lots, and to list the appropriate department or agency for filing City claims. This information will enable the City to act more efficiently. However, the City would like clarification that governmental units are allowed to designate safe harbor mailing addresses for each department, agency or instrumentality of such governmental units. In addition, the City would like a clarification that ''notice'' to a particular department, agency or instrumentality of a governmental unit shall not constitute ''notice'' to other departments, agencies or instrumentalities of the same governmental unit.

Thank you again for your leadership on bankruptcy issues. H.R. 3150 can greatly improve the City's ability to collect debts owed by bankruptcy filers which will relieve revenue pressure on all other taxpayers. We appreciate your support for the changes outlined above, and with these clarifications support the prompt passage of H.R. 3150.

Sincerely,

MICHAEL D. HESS,
Corporation Counsel.

COMMONWEALTH OF VIRGINIA, DEPARTMENT OF SOCIAL SERVICES, DIVISION OF CHILD SUPPORT ENFORCEMENT

Richmond, VA, June 9, 1998.

Hon. JAMES P. MORAN,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN MORAN: As Director Nick Young is traveling, I am responding to your request for comments on child support-related portions of H.R. 3150. The inclusion of provisions in H.R. 3150 to improve child support collections when a debtor has filed for protection under the Bankruptcy Code would be very helpful to families in Virginia. Amendments proposed in Section 146 would substantially assist our efforts to enforce child support obligations during the bankruptcy of a child support obligor. Currently, there exist in bankruptcy a number of issues that make enforcement of child support debts difficult when that parent has other creditors also attempting to gain a position in the ranking for distribution of the debtor's bankruptcy estate.

While we have many valuable tools with which to enforce child support collections, bankruptcy can place the child support debt collection in competition with other creditors. This is not normally the case in the rest of our support enforcement tools; child support takes high precedence. In bankruptcy cases filed under Chapters 12 and 13, we must cease income withholding orders and add the child support debt into all the other financial obligations considered in developing the debtor's plan. This hardly puts children first!

Congressman Gekas' proposed amendments in section 146 would correct this situation, and ensure ''children first'' in bankruptcy situations where child support is involved. We most certainly believe these amendments are beneficial to Virginia's families and the larger welfare reform initiative across the country.

Sincerely,

BILL BROWNFIELD,
Legislative Coordinator.

CALIFORNIA FAMILY SUPPORT COUNCIL,
Sacramento, CA June 4, 1998.

Hon. GEORGE W. GEKAS,
House of Representatives, Washington, DC.

DEAR CHAIRMAN GEKAS: The California Family Support Council is an organization of district attorneys and other professionals in the State of California who represent the interest of the children of this state in the establishment and collection of support under the federal child support enforcement program (Social Security Act, Title IV-D). As president of the Council I wish to express the gratitude of our members for your inclusion of provisions in H.R. 3150 to improve child support collections when a debtor has filed for protection under the Bankruptcy Code.

In particular, section 146 of H.R. 3150 contains a veritable ''wish list'' of provisions which substantially enhances our efforts to enforce support obligations during the bankruptcy of a support obligor. It closes many of the ''loopholes'' which currently exist in bankruptcy and which greatly hamper our efforts to enforce support debts when a debtor has other creditors who are also seeking participation in the distribution of the assets of a debtor's bankruptcy estate.

Congress has already provided many tools which give us an enormous collection advantage over other creditors outside bankruptcy. We can, for example, intercept tax refunds; prosecute for criminal non-support or contempt of court; revoke, suspend or non-renew licenses; obtain income withholding order which, under federal law, have an absolute priority over other creditors' claims (42 U.S.C. §666(B)(7); obtain penalties against employers who fail to honor income withholding orders; obtain such income withholding orders without leave of court; and obtain security bonds or guarantees for the payment of support. In addition nonpayment of support interstate is a federal crime. All of these collection techniques—and many more—are available at little or no cost to support obligees through the child support enforcement program.

During bankruptcy, however, many of these remedies must be reconciled with other bankruptcy code provisions which protect the debtor and place support obligees in competition with other creditors. What is worse, in cases filed under Chapters 12 and 13, income withholding must cease and the support debts must be structured to conform to the debtor's plan.

If the amendments you propose in section 146 of H.R. 3150 were enacted, the opposite would be true. Plans could not be confirmed or discharges granted unless all postpetition support payments were made; income withholding would not be affected by the filing of a bankruptcy petition; lingering issues relating to the dischargeability of certain support debts would be clarified; and distinctions between assigned and unassigned support would be eased. In short, your proposed amendments would make the effect of bankruptcy on a child support creditor negligible.

I have been informed that there is some opposition to H.R. 3150 based on the premise that support creditors would be worse off if certain credit car debts were made non-dischargeable and credit card creditors and support creditors were in competition for the same post-discharge assets. I can only say that we are in competition with those creditors prior to bankruptcy now. We do not see such debts as impairing our ability to collect support, especially in view of the advantages child support creditors have under current state and federal law as outlined above. Our problems stem not from competition with credit card creditors outside bankruptcy, but from the disadvantages we incur as collectors of support under current bankruptcy law during bankruptcy. Your proposed amendments would give support creditors an enormous advantage over other creditors during bankruptcy and greatly aid us in the discharge of our support enforcement responsibilities.

I just want you to know that, on behalf of the public child support enforcement community in California, we enthusiastically support your efforts and look forward to the swift enactment of H.R. 3150.

Yours very truly,

JONATHAN BURRIS,
President.

BANK OF AMERICA
San Francisco, CA, March 11, 1998.

Hon. GEORGE W. GEKAS,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN GEKAS: I am writing to urge your support of H.R. 3150, the ''Bankruptcy Reform Act of 1998''.

Consumer bankruptcy reform is urgently needed to address the recent explosion in the number of personal bankruptcy filings. Last year, for the first time in history, more than 1 million personal bankruptcy petitions were filed. It is anticipated that as many as 1.4 million consumers will file for bankruptcy this year. This explosion in filings is most troubling given that it comes at a time when the American economy is strong and unemployment is low.

The rise in personal bankruptcies has an undeniable impact on Bank of America. However, it is consumers who are absorbing the heaviest burden. This year, approximately $40 billion in consumer debt will be written off as a result of personal bankruptcy filings. These losses translate to approximately $400 for every American household and are passed on to all consumers as higher interest rates and higher prices for goods and services. In effect, the vast majority of consumers who pay their bills on time are picking up the tab for those who do not.

Our flawed bankruptcy system allows this inequity to continue. The Bankruptcy Code allows individuals to erase all their debts even if they have the ability to repay some portion of them. Not surprisingly, the overwhelming majority of filers—70 percent—choose Chapter 7, which allows virtually all debts to be erased regardless of whether the debtor could repay some of what he or she owes. Recent research shows, in fact, that about 25 percent of Chapter 7 filers have the ability to repay their housing debt plus at least one-third of their remaining debts. One in twenty Chapter 7 filers has sufficient income to repay all debts, but receives complete relief anyway.

H.R. 3150 would change the law to ensure that individuals receive the amount of debt relief they need, no more and no less. It would allow those in the most serious financial difficulty to get the fresh start they need while requiring those with an ability to repay a portion of their debts to do so. It is a sensible solution to a serious problem.

I urge your support of H.R. 3150. This legislation represents important consumer bankruptcy reform that is necessary to stem the rising costs associated with personal bankruptcies, while making the bankruptcy system more equitable for consumers, creditors and debtors alike.

Sincerely,

JAMES G. JONES.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, June 8, 1998.

Hon. GEORGE W. GEKAS,
Chairman, Commercial and Administrative Law Subcommittee of the House Judiciary Committee, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN GEKAS: The National Association of Counties (NACo) supports the Bankruptcy Reform Act of 1998 (H.R. 3150) as reported by the Committee on the Judiciary. We urge the House of Representatives to vote for H.R. 3150 when it is considered on the floor.

NACo particularly is pleased with provisions included in the bill reported by the Committee on the treatment of state and local government tax liens in bankruptcy proceedings. The provisions in H.R. 3150 are very important to states, counties, cities and school districts. The bill would change a number of sections in the Bankruptcy Code that have caused counties to lose millions of dollars in property tax revenues. Counties have to increase taxes, cut programs or find substitute funding to replace this lost revenue as a result of current federal bankruptcy law. We are pleased that the bill contains a majority of the provisions developed and proposed by the National Association of County Treasurers and Finance Officers, an affiliate of NACo.

If you have any questions about the position of the National Association of Counties, please call Ralph Tabor or our staff at 202–942–4254.

Thank you for your consideration.

Sincerely,

LARRY E. NAAKE,
Executive Director.

COLORADO COUNTIES, INC.,
Denver, CO, April 29, 1998.

Hon. GEORGE W. GEKAS,
Member, House Judiciary Committee, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN GEKAS: On behalf of Colorado's 63 county governments, I am writing to urge your continued support of H.R. 3150 also known as the ''Bankruptcy Reform Act of 1998.'' We understand that the House Judiciary Committee will be marking up the legislation in the next week, and we appreciate your leadership in assuring its provisions are considered favorably.

As you are aware, the National Association of County Treasurers and Finance Officers (NACTFO) has been an active participant in the ongoing discussions related to the priority of ad valorum tax liens in bankruptcy proceedings. The organization previously submitted to you a paper entitled ''Local Government Recommendations for Bankruptcy Code,'' and attended all public hearings of the National Bankruptcy Review Commission.

As H.R. 3150 is considered in the Judiciary Committee, we encourage you to consider the attached ''Specific Recommendations to Amend H.R. 3150'' dated April 10, 1998, as prepared by The Honorable Ray Valdes, Co-Chair of the Legislative Committee of the National Association of County Treasurers and Finance Officers. The recommendations include a number of provisions that we believe will make H.R. 3150 an even stronger reform measure.

If you have specific questions regarding the proposal, I encourage you to contact The Honorable Ray Valdes at 407.321.1130 or The Honorable Sandy Hume, Boulder County Treasurer, at 303.441.3500.

Thank you for your consideration.

Sincerely,

PETER B. KING,
Director.

NATIONAL ASSOCIATION OF FEDERAL CREDIT UNIONS,
Washington, DC, February 26, 1998.

Hon. GEORGE W. GEKAS,
Chairman, Commercial and Administrative Law, House Judiciary Committee, Washington, DC.

DEAR CHAIRMAN GEKAS: On behalf of the National Association of Federal Credit Unions (NAFCU), the only national trade association exclusively representing the interests of the nation's federal credit unions, I wish to commend you on your efforts to restore personal responsibility to the bankruptcy system.

NAFCU believes that the ''Bankruptcy Reform Act of 1998'' (H.R. 3150) will help to ensure that the system is fair for debtors, creditors and consumers. Because of the unique structure of member-owned credit unions all losses suffered by a credit union are passed down through the members in the form of higher loan rates, lower rates on savings and/or more stringent lending criteria. Credit unions take great pride in working with their members who encounter financial difficulties and your legislation is certainly a step in the right direction. NAFCU is pleased to endorse this legislation.

NAFCU would like the opportunity to testify and share with the Committee the impact bankruptcies have on member-owned cooperative credit unions, and the unique role credit unions can play in assisting those in dire financial straits.

Thank you for the opportunity to participate in this important effort. Please allow me to extend a special note of appreciation to the members of your staff, especially Dina Ellis, for their assistance and support.

We look forward to working with you on this and other challenging issues affecting credit unions and your credit union constituents.

Sincerely,

WILLIAM J. DONOVAN,
Senior Vice President, Deputy General Counsel.

NATIONAL MULTI HOUSING COUNCIL AND NATIONAL APARTMENT ASSOCIATION,
Washington, DC, February 2, 1998.

Hon. GEORGE GEKAS,
Chairman, Commercial and Administrative Law Subcommittee, House of Representatives, Washington, DC.

DEAR CHAIRMAN GEKAS: On behalf of the National Multi Housing Council (''NMHC'') and the National Apartment Association (''NAA''), I am writing to convey our strong support of your legislation, the ''Bankruptcy Reform Act of 1998.''

NMHC and NAA jointly operate a federal legislative program which provides a unified voice for the private apartment industry. Our combined memberships are engaged in all aspects of the ownership and operation of apartments, including finance, development, construction, and management.

Bankruptcy filings in the nation continue their upward climb. According to the most recent information from the U.S. Department of Justice's Administrative Office of U.S. Courts, the federal agency which oversees the nation's federal bankruptcy courts, bankruptcy filings during the 12-month period ending September 30, 1997, were highest on record at 1,367,364, representing over a 400 percent increase since 1980.

The National Bankruptcy Review Commission has spent considerable time investigating the cause of these bankruptcy filings, and while there is no single answer, it is clear that part of the problem lies in the abuses of the U.S. Bankruptcy Code. NMHC and NAA believe that your legislation will help to stem these abuses and provide a more level playing field between debtors and creditors.

NMHC and NAA commend you for your leadership in reforming the Code and look forward to working with you during the 105th Congress to pass the Bankruptcy Reform Act of 1998.

Sincerely,

SCOTT BELCHER.

[News release from the National Retail Federation]

NATIONAL RETAIL FEDERATION VOICES SUPPORT FOR BANKRUPTCY REFORM ACT OF 1998

BILL WOULD STEM SOARING FILINGS AND RESTORE COMMON SENSE TO BANKRUPTCY CODE

Washington, DC, February 3, 1998—The National Retail Federation, the world's largest retail trade association, today voiced its support for The Bankruptcy Reform Act of 1998, calling it a giant first step that puts responsibility and sensibility back into the bankruptcy code.

''We applaud Rep. Gekas and his colleagues for their leadership in crafting this commonsense approach to bankruptcy reform,'' said NRF President Tracy Mullin. ''This bill will ensure that those with real need get real relief.''

The bill, introduced by Reps. George Gekas (R–PA), Thomas Moran (D–VA), Bill McCollum (R–FL) and Rick Boucher (D–VA), addresses what NRF believes are fundamental flaws in the current bankruptcy code: that individuals with the ability to repay their debts are not required to do so, nor is there any mechanism to determine their ability to pay.

Mullin noted that the number of individuals filing bankruptcy has soared in recent years—up nearly 60 percent in two years—in

spite of a growing economy and low unemployment. A recent study also revealed that 25 percent of those filing Chapter 7 could repay at least one-third of their debts.

''That's just plain wrong,'' she said. ''The bottom line is the costs associated with bankruptcy don't disappear; everyone pays for those who walk away from their debts.''

Retailers lost billions last year in bankruptcy claims. The growth in bankruptcy filings—particularly Chapter 7 filings—costs the average U.S. household an estimated $500 in higher prices for goods and services.

''The Bankruptcy Reform Act of 1998 is a positive step forward to restoring common sense to the bankruptcy code,'' Mullin concluded.

The National Retail Federation (NRF) is the world's largest retail trade association with membership that includes the leading department, specialty, discount, mass merchandise and independent stores, as well as 32 national and 50 state associations. NRF members represent an industry that encompasses over 1.4 million U.S. retail establishments, employs more than 20 million people—about 1 in 5 American workers—and registered 1997 sales of $2.5 trillion. NRF's international members operate stores in more than 50 nations.

FLEET,
Horsham, PA, May 19, 1998.

Hon. GEORGE W. GEKAS,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN GEKAS: On behalf of Fleet Financial Group I urge you to support H.R. 3150, the ''Bankruptcy Reform Act of 1998'' which is scheduled to come to the House floor this week. H.R. 3150 was reported favorably by the Judiciary Committee last week and contains urgently needed reforms to the consumer bankruptcy system. The bill establishes a fair and equitable ''needs'' test that requires those that can afford to repay some or all of their debts to do so.

Consumer bankruptcy filings exceeded 1.3 million last year, an increase of 20% from 1996 and more than 350% from 1980. Contrary to popular belief, credit cards are not a leading cause. Credit card loans represent only 7% of total US consumer debt and less than 16% for bankrupts. Ninety-six-percent of credit card holders pay on-time and only one-percent end up in bankruptcy .

Surveys have found an increasing number of consumers view bankruptcy as an acceptable option with little or no stigma. The 5,000 petitions filed daily cost responsible debtors upwards of $400 per year, or the equivalent of one-month's groceries for a family of four. To protect these families, it is essential that the system be reformed as proposed by H.R. 3150.

Some opponents of this legislation have argued that it raises concerns about child support payments. However, the Judiciary Committee adopted several amendments last week designed to strengthen and clarify the priority given to child support payments in bankruptcy proceeding and to deal effectively with other issues raised. Current federal and state law, as well as H.R. 3150 as reported by the Judiciary Committee, make it clear that child support must be paid 100% before repayment of any unsecured debt, including credit card debt. In fact, the House and Senate both recently passed the Child Support Performance and Incentive Act of 1998 that strengthens current law by increasing penalties for nonpayment of child support. That bill is going to conference and is expected to be signed into law by the President soon.

Fleet Financial Group urges you to vote YES on H.R. 3150 when it comes to the House floor and to reject amendments that weaken the needs test or otherwise undermine this important legislation.

Sincerely,

JOSEPH W. SAUNDERS,
Chairman and CEO.

EXPERIAN,
Orange, CA, April 15, 1998.

Hon. GEORGE W. GEKAS,
Chairman, House Judiciary Subcommittee on Commercial and Administrative Law, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing on behalf of Experian, a leader in the consumer credit reporting industry, to express our support for your bill, H.R. 3150, the Bankruptcy Reform Act of 1998. Your bill represents a balanced approach to restoring personal responsibility to our federal bankruptcy system.

The proposal to require certain filers to repay at least some of their debt when seeking bankruptcy protection is a commonsense measure. The current bankruptcy system is flawed because it allows debtors that clearly have an ability to repay to walk away from their debts. Credit grantors deserve a chance to work out a payment schedule with consumers who have reasonable incomes.

At the same time, your proposal ensure that relief will be available for those who truly need bankruptcy protection. In addition, Experian supports the provisions of H.R. 3150 that promote consumer education and encourage debtors to fully explore alternatives to bankruptcy.

Now is the time for bankruptcy reform. The U.S. economy is stable and unemployment is low. Yet, last year 1.4 million individuals filed for personal bankruptcy, a record number that has more than doubled during the past decade. Personal bankruptcies costs the economy more than $40 billion each year, an amount that translates to about $400 per American family.

Please continue your leadership on this important reform measure.

Sincerely,

D. VAN SKILLING,
Chairman and CEO.

SENT TO ALL MEMBERS OF THE HOUSE JUDICIARY COMMITTEE, MAY 5, 1998

DEAR REPRESENTATIVE: We are writing in anticipation of the Committee's consideration of HR 3150, the ''Bankruptcy Reform Act of 1998.'' Our organizations urge the Committee to endorse a provision reported by the Subcommittee on April 23 to delete the $4 million cap from the definition of single asset real estate.

Single asset real estate is a form of real estate financing whereby the owner of a single piece of commercial real estate borrows funds from a lender and gives a mortgage on the property as collateral. The distinguishing feature of this arrangement is that the owner holds the property as an investment and does not conduct any business on the property. Therefore, arguments that this will cost jobs are baseless and erroneous. Rather, bankruptcies that cause property deterioration result in vacant buildings, tax losses to communities, economic decay and significant job losses.

Congress recognized that single asset entities should receive expedited treatment with the passage of the Bankruptcy Reform Act of 1994. However, during the final hours just prior to passage, a $4 million cap was arbitrarily inserted into the definition of single asset real estate. The presence of the $4 million cap is indefensible because there is no basis in fact, law, or commercial lending practice for the cap. To the contrary, the utility of the single asset provisions in avoiding or shortening futile Chapter 11 reorganization proceedings is greater, rather than less, for large properties with more secured debt. Therefore, the $4 million cap should be deleted to permit the efficient operation of the single asset provisions and the fulfillment of their purpose.

Finally, mortgages may be used to fund pensions, annuities and life insurance. They will be at risk in the next downturn of the economic cycle if defaulting single asset real estate owners are permitted to abuse the bankruptcy process.

For these reasons, we strongly support HR 3150, and specifically, the provision in the bill that would delete the $4 million cap from the definition of single asset real estate.

Sincerely,

AMERICAN BANKERS ASSOCIATION.
AMERICAN COUNCIL OF LIFE INSURANCE.
MORTGAGE BANKERS ASSOCIATION OF AMERICA.
NATIONAL ASSOCIATION OF REALTORS.
INSTITUTE OF REAL ESTATE MANAGEMENT.

HOUSEHOLD,
June 8, 1998.

U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: Household International strongly supports passage of HR 3150, the Bankruptcy Reform Act of 1998, and we urge your support for the bill when it appears on the floor of the House later this week.

Household International, headquartered in Illinois with major facilities in California, Nevada and Virginia, is a leading provider of consumer finance and credit card products in the United States, Canada and the United Kingdom. Household Finance Corporation, one of Household's core businesses, is the oldest consumer finance company in the United States. Household Credit Services and Household Retail Services are two of the nation's largest issuers of general purpose and private-label credit cards. Our principal credit card products include the GM card and the AFL–CIO's Union privilege card. Household recently reached agreement to buy Beneficial Corporation and upon completion of that merger will have more than 1000 branches throughout the United States.

Despite a strong economy, personal bankruptcies are soaring and reached a record 1.3 million in 1997. Bankruptcies cost consumers about $40 billion last year, equal to about $400 per family working to pay its bills. HR 3150 does not have as a goal reducing the total number of bankruptcies, but it contains a mechanism to guide some 11% of filers who have the means to pay some of their debts into Chapter 13 bankruptcy where they will work with the court to create a repayment plan to pay a portion of the debts they have run up. Household believes it is only fair that those who can pay some of the debts do so, and according to a poll released by the National Consumer league, 76% of the public agrees that ''individuals should not be allowed to erase all their debts in bankruptcy if they are able to repay a portion of what they owe.''

Amendments to HR 3150 added at the full Committee mark-up raised the income level for the safe harbor provision of the bill and added protections for children and spouses receiving child support and/or alimony above those in existing law. We believe the bill is fair and needed. Household strongly urges your support for HR 3150.

Sincerely,

J. DENIS O'TOOLE,
Vice President, Government Relations.

MELLON BANK,
ONE MELLON BANK CENTER,
Pittsburgh, PA, June 8, 1998.

Hon. GEORGE W. GEKAS,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN GEKAS: I am writing to call your attention to a matter that is of vital interest to every bank, savings and loan, credit union and retailer across Pennsylvania. The issue is bankruptcy reform. There is currently a bill in the House that, in our view, addresses this growing problem and injects some common sense reforms into our outdated bankruptcy system. This bill, H.R. 3150, was recently reported out of the House Judiciary Committee and is scheduled for a vote on the floor this week.

As you know, filings for bankruptcy have skyrocketed in recent years to a point where it has become the option of choice for many who face financial difficulties. While we would never preclude the choice of a Chapter 7 filing for those truly in need of complete debt relief, we do take issue with those who possess the means to repay their debts but instead walk away from their obligations.

This abuse of the system does have a cost. At Mellon, in fact, we lost, on average, over $75 million in each of the last three years as a result of bankruptcy filings. We are forced to raise the cost of credit for our responsible customers to cover the losses we incur because of bad debt. For retailers, like department stores, losses are covered through higher prices on merchandise. But no matter how the losses are recouped, the end result is the same; people who pay their debts cover the cost of those who do not.

To correct this worsening problem, we are asking you to endorse ''needs-based'' bankruptcy reform legislation. H.R. 3150, we believe, provides a model reform measure for Congress to adopt and we think the ideas presented in this bill warrant your close inspection and your support.

Please vote ''yes'' on bankruptcy reform.

Sincerely yours,

MARTIN G. MCGUINN,
Chairman.

COMMUNITY ASSOCIATIONS INSTITUTE,
April 27, 1998.

Hon. GEORGE W. GEKAS,
U.S. House of Representatives,
Washington, DC.

DEAR CHAIRMAN GEKAS: On behalf of the 42 million Americans who live in the nation's 205,000 community associations—condominium associations, cooperatives and homeowners associations, I would like to thank you for supporting small but important changes to the Federal Bankruptcy Code.

Your willingness to include our changes in your amendment in the nature of a substitute to H.R. 3150 is greatly appreciated. These changes will obligate owners in homeowners associations, condominium associations and cooperatives who file for bankruptcy to pay association assessment fees as long as they—or their Trustees—maintain an ownership interest in their units. Community association assessments will also not be treated as executory contracts.

While changes to the Code in 1994 added important provisions dealing with the collection of post-petition assessments in certain condominiums and cooperatives, homeowners associations and commercial condominium associations were inadvertently omitted from the final legislation. Your inclusion of our language in your amendment will expand existing provisions to include homeowners associations and tie the responsibility for post-petition assessments to ownership.

Without this change, bankrupt owners could continue to avoid their assessment obligations whenever their units are vacant or occupied by people who do not pay rent—while all other association residents are left to pick up the tab.

Again, thank you for taking notice of the importance of this issue to over 42 million Americans. Please contact me by phone (703–548–8600), fax (703–684–1581) or email (cschneider@caionline.org) if CAI may be of assistance in any way.

Sincerely,

CORNELIA I. SCHNEIDER,
Issues Manager, Government & Public Affairs.

AMERICA'S COMMUNITY BANKERS,
June 9, 1998.

DEAR REPRESENTATIVE: America's Community Bankers (ACB) urges you to support H.R. 3150, which would provide much-needed reform for our nation's bankruptcy laws.

This legislation mandates that debtors who have the ability to repay a portion of their debts be required to do so, introducing the ''needs-based'' concept into the bankruptcy system. Under the ''needs-based'' system, debtors who truly need bankruptcy relief are provided a relatively quick and easy discharge in Chapter 7, while debtors who have the ability to repay are permitted to structure reasonable repayment plans in Chapter 13.

Further these revisions ensure that residential real estate mortgages cannot be ''crammed down,'' or reduced in priority, in bankruptcy. This rule, articulated by the Supreme Court in the 1993 Nobelman case, provides for fairness and certainty in mortgage-related transactions.

Moreover, it should be noted that any issues relating to child support and alimony have been resolved by the House Judiciary Committee. While H.R. 3150 did not alter existing law with respect to the priority of child support and alimony payments, the Judiciary Committee did adopt a series of amendments to address this issue. These amendments specifically and categorically provide that child support and alimony payments will be afforded priority over unsecured debts, both during and subsequent to the bankruptcy proceedings. Thus, child support and alimony payments are clearly protected under H.R. 3150.

H.R. 3150 creates an equitable system that balances the interests of both debtors and creditors. ACB and our members urge you to vote for H.R. 3150 because it will preserve and improve the bankruptcy system for all Americans.

Sincerely.

ROBERT R. DAVIS,
Director of Government Relations.

COUNCIL FOR CITIZENS AGAINST
GOVERNMENT WASTE,
Washington, DC, April 17, 1998.

Hon. GEORGE GEKAS,
U.S. House of Representatives,
Washington, DC

DEAR REPRESENTATIVE GEKAS: This letter is in response to your request for our opinion on H.R. 3150 (The Bankruptcy Reform Act of 1998). On behalf of the 600,000 members of the Council for Citizens Against Government Waste (CCAGW), I am pleased to support this important legislation. H.R. 3150 establishes fair and reasonable bankruptcy guidelines designed to protect debtors, creditors, and consumers while still holding debtors personally accountable.

In 1997, 1.33 million bankruptcy petitions were filed in this country, erasing an estimated $40 billion in consumer debt, which resulted in increased interest rates, set higher prices and increased layoffs. Each household will pay out an extra $400 this year to account for that consumer debt. H.R. 3150 ensures that responsible consumers will no longer be forced to shoulder such a large burden. By establishing a system that determines the amount of financial relief a debtor actually needs and requiring people to repay what they can, H.R. 3150 obligates debtors to take more responsibility for their situation.

H.R. 3150 also creates a ''Debtor's Bill of Rights'' which requires law firms and other consumer credit agencies to refund the full cost of representing a debtor if they do not adequately inform consumers of their rights and the potential harm bankruptcy can cause. Too often, debtors are not aware of options other than bankruptcy. The ''Debtor's Bill of Rights'' should reduce the amount of bankruptcy claims filed and therefore reduce the total amount of debt passed on to responsible consumers. Additionally, H.R. 3150 establishes a financial management training program that debtors may be required to complete in order to have his or her debts discharged. Educating debtors encourages them to become fiscally responsible and reduces the chance that their financial situation will again become unstable.

The Bankruptcy Reform Act of 1998 contains numerous provisions which protect all of those involved in a bankruptcy claim: the debtor, the creditor, and all consumers. In this time of economic prosperity, it is important that legislation be enacted that will help those in dire financial situations while protecting responsible consumers who unfairly shoulder the cost of bankruptcies. We encourage your colleagues to support H.R. 3150.

Sincerely,

THOMAS A. SCHATZ,
President.

THE BANKERS ROUNDTABLE,
Washington, DC, April 27, 1998.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary,
Washington, DC

DEAR MR. CHAIRMAN: The Bankers Roundtable, representing the nation's major banking companies, strongly supports the Bankruptcy Reform Act of 1998, H.R. 3150. As you are aware, studies have shown that the 1.3 million bankruptcies filed in 1997 have cost consumers over $40 billion. As a result, U.S. households have had to pay over $400 each in increased annual borrowing costs. A responsible approach to reform, such as H.R. 3150, would benefit the vast majority of Americans who properly use consumer debt as a tool to manage their household finance and repay their debts in a timely manner.

H.R. 3150's means-test would maintain Chapter 7 discharge of debts for poor or heavily indebted borrowers while requiring those with the capacity to repay all or some of their debts to do so. Further, the bill's other balanced measures to reduce fraud and abuse in bankruptcy filings would aid in ensuring that consumers continue to have access to credit at reasonable and affordable terms and rates.

Attached please find a copy of the Roundtable's Policy Statement on Consumer Bankruptcy Reform. The Bankers Roundtable asks for your support for H.R. 3150, including the concept of a means-test, and looks forward to working with you on this legislation.

Sincerely,

ANTHONY T. CLUFF,
Executive Director.

NATIONAL LEAGUE OF CITIES,
Washington, DC, June 3, 1998.

Hon. GEORGE W. GEKAS,
U.S. House of Representatives,
Washington, DC

DEAR REPRESENTATIVE GEKAS: The National League of Cities (NLC) urges your support in the passage of provisions of the

''Bankruptcy Reform Act of 1998'' (H.R. 3150) that would aid local governments. The inclusion of the Investment in Education Act, as passed by the Senate in November 1997 in H.R. 3150, recognizes the importance of payment of ad valorem taxes to local governments to support education. NLC strongly urges you to support these provisions and the amendments made by the House Judiciary Committee that would strengthen the Investment in Education Act.

This legislation is very important to local governments because it would change provision of the Bankruptcy Code that have caused local governments to lose millions of dollars in property tax revenues. As you know, property taxes are the bread and butter of the education budget for cities, towns, counties, and school districts.

Of the provisions included in this bill, it is most important that local governments are able to receive the local statutory interest rate on ad valorem tax claims associated with bankruptcies. Cites and towns are nonconsensual creditors and are in unique situations with their constituents. In New York City and some New Jersey, Texas, Illinois, and California cities and towns the local interest rate accruing on unpaid taxes should be double the I.R.S. statutory rate. Cities cannot afford to have their interest rate ''crammed down''. Clarifying that the local interest rate should be applied for unpaid ad valorem taxes would put an end to unnecessary favorable treatment for bankruptcy filers who have not paid their property taxes.

NLC strongly encourages you to pass the Investment in Education provisions in H.R. 3150 this year, to ensure cities and towns, vital revenues for their education budgets. NLC looks forward to working with you towards the passage of bankruptcy legislation. If you have any questions, please, please have your staff contact Kristin Cormier, NLC Legislative Counsel, at (202) 626–3020.

Sincerely,

BRIAN O'NEILL,

President, Councilman, Phildelphia, PA

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, bankruptcy is a dull, boring and technical subject. Not many people pay detailed attention to it. And advocating that people behave responsibly and pay their debts, if at all possible, is attractive and unassailable.

□ 1415

I know that many people, seduced by that slogan, signed up to support this bill. But it was false packaging, an attractive wrapper to disguise one of the worst special interest bills we have considered in many years.

When you strip away the veneer and the verbiage, there stands, starkly revealed, a bill with one central purpose, to take large sums of money from middle- and low-income American families in distress and give it to the credit card companies; and, while we are at it, to take large sums of money from other creditors and give it to the credit card companies. This is a bill of, by, and for the credit card companies which have waged a long and expensive campaign for it.

Who benefits from this bill? The credit card companies. Who gets hurt by this bill? Middle- and low-income families who are in over their heads in debt because of a medical emergency, a lost job, gambling addiction; mothers rearing young children dependent on child support or spouse support; crime victims seeking victim's compensation; other creditors who cannot afford the high-priced lawyers of the credit card companies to compete for the collection and who will have to forgo repayment of the $260 million to $1.3 billion the Congressional Budget Office says this bill will add to administrative costs and which will come out of money to be recovered by the creditors; small business owners whose businesses this bill will force into liquidation instead of survival; and the taxpayers, who will have to foot the $214 million the CBO says this bill will add to the Federal budget.

Who supports this bill? The credit companies and the big banks. Who opposes this bill? The consumer groups, the AFL-CIO, the women's groups, the victims' rights organizations, the bankruptcy judges, the bankruptcy trustees, the National Bankruptcy Conference, the National Association of Chapter 13 Trustees, the National Association of Consumer Bankruptcy Attorneys, the Administration; in short, everybody who knows the bankruptcy system except the credit card companies and the big banks. In fact, this legislation is nothing more than a special interest favor to the big credit companies and the big banks. It will take American families in terrible economic straits and it will allow creditors to harass them with litigation. It will allow MasterCard and Visa to snatch child support from struggling families. It will clog our courts. It will invade the privacy of families by requiring them to make their tax returns public so that banks and other creditors can review the most private details of their lives, including medical expenses, and it will cost the taxpayers a bundle to collect the reckless debts of credit card companies who sent out more than 3 billion credit card solicitations last year to children, family pets and people already in over their heads.

Why do we need this bill? We have heard a great many extravagant claims about the reasons why more than 1.3 million Americans filed for bankruptcy last year. The underlying assumption of this legislation that millions of Americans are essentially deadbeats using the bankruptcy code to cheat unsuspecting and helpless megabanks is quite frankly a slander against the American people.

Mr. Chairman, we have been told that the reason we have increased bankruptcy filings is that social mores have changed, that there is no longer a stigma associated with bankruptcy, that people use it as a first financial planning option instead of as a last resort, that there is an easy availability of bankruptcy. But this does not make sense. The bankruptcy code does not cause people to go bankrupt. Lack of health insurance, downsizing, jobs moving abroad, family disintegration, the sort of problems you would hear about if you listened to your neighbors, that is what causes bankruptcy. What is really scandalous is that instead of dealing with the pressures on American families, this Congress chooses to go after the victims. In fact, the Committee on the Judiciary received testimony from academics, from people like Professor Ausubel of the University of Maryland, demonstrating a direct link between deregulation of interest rates, increased lending and the increase in bankruptcies. These findings are supported by the work of the FDIC and we are waiting for the completion of a Congressional Budget Office review of the data which it appears will also likely confirm these findings.

What we have seen is that although real interest rates, the costs banks pay for money, have dropped substantially over the last 20 years, credit card interest rates, the price American consumers pay to borrow money on their credit cards, have remained extraordinarily high. The result, credit card operations are now the most profitable of all banking operations, up to five times more profitable than noncredit card operations. If it were true, as we are told by the supporters of this bill, that it is changing social mores, lack of a stigma that are getting people to file for bankruptcy when they still can pay their debts before they are in over their heads when they would not have done so years ago, one would expect that the ratio of debt that people have to their income would have gone down, because people are now filing when they still can pay their debts, whereas earlier they did not.

But, in fact, look at this chart. It shows just the opposite. In 1983, the average debt-to-income ratio of a Chapter 7 filer, someone who filed for bankruptcy, was 87 percent. It went up consistently. It has doubled. Now it is 164 percent, which means it went up, not down. People are twice as deeply in debt today before they file for bankruptcy as they were in 1981. They are more desperate. They do not file easily. They wait as long as they can.

In fact, if you look at the rise in bankruptcies and you look at the rise in the debt-to-income ratio in people at large and how much debt people have which started increasing with the deregulation of credit card rates about 20 years ago, you find it tracks almost exactly. Look at this. As the debt-to-income ratio goes up, that is what causes the bankruptcy filings to go up.

It is the irresponsible lending by the credit card companies that is largely responsible for the increase in bankruptcy filings. In fact, if we wanted to do something about this, we should limit that irresponsible lending. But unfortunately, that amendment was not made in order. We should say that it is an objection to claim, that you cannot collect your debt if you lent the money after you knew that the person was already in over his head, after he

already had a debt to income ratio of 40 or 60, draw the line, percent, but that unfortunately the Committee on Rules did not make in order.

We know that credit card lending is very profitable today. In fact, if you look at the chart, you see the profitability of credit cards versus the profitability of the overall banking system. The overall banking system has remained at the same level of profitability for the last 25 years. The profitability of the credit card system, however, has doubled. We have to bail them out with this bill because they are losing some money on bad debts when their profitability is five times the profitability of all other parts of the banking system.

Credit card interest rates have stayed up. The cost of money has gone down from 14 percent, reduced by half to 6 percent, but the credit card interest rates have gone down from 18 to 16 percent. Then we are told that we will save $400 per American family if we pass this bill because the credit card companies will lower the interest rates to counter the fact that they are getting more money from deadbeats. Look at the record. If you believe that, there are a couple of bridges in New York, not just the Brooklyn Bridge, that I can sell you for only a couple of billion dollars.

The fact is that car loans have gone down, mortgages have gone down, the cost of money has gone down, the credit card interest rates stay up and that is why they are so profitable. If we pass this bill, they will be even more profitable, but it will not be passed through to the consumer by a nickel.

Having said all that, we agree, there are some people who abuse the system. There are people who are filing for Chapter 7 bankruptcy who can afford to repay their debts. Let us crack down on them. But that is what the Democratic substitute says. Let us crack down on them, but let us crack down on them through a reasonable test, a test that really looks at their ability to pay.

The administration in its statement of opposition says:

> The formulaic mechanism in H.R. 3150 will not distinguish accurately those debtors who have the capacity to repay from those that do not have that capacity. A properly structured system would give bankruptcy courts greater discretion to consider the specific circumstances of a debtor in bankruptcy.

That is what we want to do in this substitute. That is what we did in the bill that the committee refused to consider. The fact is if you look at the ability to repay, you will want to look at someone's income and his expenses, how much is he paying in rent, not as the bill before us would say, how much does the Internal Revenue Service think someone in the northeastern United States is probably paying for rent. Who cares what someone might be paying for rent, the average person. The question is how much is he paying for rent, how much is he paying for child care, for his medical expenses for his wife or his daughter or whatever. A formula does not work. We have to have a human being there, a judge, who can take a look at the situation to make a judgment, not a computer.

The majority brags about this bill, that you can put it into a computer and the result will be put out, no human discretion, no human sympathy, no human understanding and no facts, only theory, from the Internal Revenue Service, of all people. That is what this means-based test is. Even if you pass the means test, under this bill you will be harassed by creditor motions that are not permitted in the law now, by the threat of litigation, and it will lead to many people who meet the means test having to withdraw their petitions because they cannot afford to pay the lawyers to fight the banks' lawyers on these frivolous, dilatory motions.

The other thing this bill does, because its major function is to give a lot of money to the credit card companies, is that credit cards jump the line. They are going to be nondischargeable in bankruptcy. The administration says the bankruptcy code generally makes debts nondischargeable only where there is an overriding public purpose as with debts for child support and alimony payments, educational loans, tax obligations or debts incurred by fraud. What is the overriding public policy purpose for skipping the credit cards ahead of the secured debtor, ahead of priority debt and making it nondischargeable? There is no public policy purpose. What is the public policy purpose for saying that in a Chapter 13 workout plan, you cannot confirm the plan unless you pay $50, minimum monthly, to the credit card companies? So if your ability to repay is $75 a month, $50 goes to the credit card companies and $25 is left for everything else.

Credit cards uber alles. Why? Why should the other creditors take second fiddle, creditors who have security interests, creditors who may have done more due diligence? And if your ability to repay is $40, less than the $50 minimum, they cannot confirm a plan, so you are too rich for a Chapter 7 bankruptcy and you are too poor for a Chapter 13 bankruptcy and you fall right through the cracks. And because the purpose of this bill is in these ways, by nondischargeability and a $50 minimum under Chapter 13, to give the money to the credit card companies, it fouls up the child support, it fouls up the victim's collection of crime victim's compensation.

The sponsors of the bill say they fixed it in committee. First they denied it. Then they said they fixed it. Now they have an amendment to say they fixed it. But all the groups who deal with this, the women's groups, the child support groups, the administration, they say those fixes are cosmetic, they do not deal with the problem, and they do not.

What does it do to small business? For reasons I know not, this bill adds great paperwork requirements to small businesses, constricts the time limits in which they have to do things, adds in effect a mini confirmation hearing before the confirmation hearing, all of which will result, as the Small Business Administration tells us, in thousands and thousands of small businesses that go into Chapter 13 and Chapter 11 for workouts to restructure their debts, to reorganize and to come out of it, retaining the business, retaining their employees, they will not be able to meet it, they will liquidate, jobs are gone. Why should we do this to small business?

Finally, this bill is a budget buster. CBO tells us, the Congressional Budget Office, it will cost the taxpayers $214 million out of the Federal budget, and they tell us it is a private sector burden of $260 million to $1.3 billion. That is the effect this bill would have.

In summary, this bill affects negatively everybody except the credit card companies and the big banks. The bill is ill-considered, it is not ready to move, it is a budget-buster, it takes away the rights of debtors, and it will hurt many creditors as it aids the credit card companies in their search for greater profits. This bill is unworthy of this House and will cause misery to our neighbors and financial distress. This bill is in fact morally bankrupt and I urge my colleagues to reject it.

Mr. Chairman, I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume, only to say, to repeat as often as possible, that the support enforcement agencies of the country are happy with the provisions of H.R. 3150 with respect to collection of child support. We will spread on the record as we have time and time again letters from the California support people, New York and others who are blessedly happy with what we are trying to do on support matters.

Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. MCCOLLUM).

(Mr. MCCOLLUM asked and was given permission to revise and extend his remarks.)

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of this bill. I certainly respect the gentleman from New York (Mr. NADLER), but I disagree with a lot of his analysis and I want to go through it quickly.

First of all, we had a $44 billion loss in bankruptcies last year alone. We have seen an over 100 percent increase in personal bankruptcy filings from 1986 to 1996. And last year, the year in which the economy probably did better than any other time in the history of the Nation, bankruptcy filings were up some 20 percent in that year alone.

□ 1430

We have got a problem in this country, whatever the reason may be. Maybe some of that does belong because credit card companies send too many notices out to people, but by and large that is not the reason that we have the problem. It is because people are not exercising individual responsibility because they are not going to a payback plan when they could afford to pay back their debts as they once did, at least in larger numbers than they do now.

What our bill has tried to do is to help the consumer. The person who is responsible who does have credit card and other debt who does pay that debt back, help them to avoid the cost that they are paying because of the bad debt people who take advantage of pure bankruptcy and do not pay back the debt they are supposed to and could pay back.

The fact of the matter is that no credit card company or any other creditor is going to absorb the losses of the magnitude we are talking about. They are going to cost shift. They are going to pass that on. They do it in the cost of goods and services, fees and interest rates.

Will they all come down if we pass this bill? I do not know, but they sure as heck are going to go up if the rate of bankruptcies continue to climb the way they are now.

So our bill is a consumer protection bill. It creates a needs-based test, and it is a very simple formula. It says to take median family income, determine what that is. For a family of four that is about $51,000 last year. If they have less than a median family income, they can still file plain old vanilla pure bankruptcy under chapter 7, and do not worry about the means test and the needs test. But if they have over 50,000, they have got to go through this formula. Take monthly gross income, deduct from that monthly gross income the amount of secure debt payments, how much is being paid on the car. Then deduct from that the amount paid for child support, alimony, other court ordered support. Then deduct from that the monthly payments for other living expenses which are calculated under the Internal Revenue Service Code like we do for our taxes, for whatever they are, and if after doing that there is left over $50 a month or more and if by applying what there is left over they could pay off 20 percent or more of their unsecured debt over 5 years, then they have to file chapter 13 or a payback plan from a bankruptcy. Still get bankruptcy protection, but they have to file the kind where they actually pay back what they owe.

That is the basic premise of bankruptcy law. People who can afford to pay it back ought to be required to pay it back. That is the premise of this bill. There is nothing more and nothing less here, and I would certainly encourage my colleagues to recognize the fact that whatever else they think, this is a simple formula, it is not complicated, it is not expensive, it could be done with all the data that goes into bankruptcy courts anyway in the first place. We need to put personal responsibility back into the system again, and I encourage the adoption of this bill in the strongest of terms.

Mr. Chairman, I thank the gentleman for having yielded this time to me.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I want to commend the gentleman from Pennsylvania (Mr. GEKAS) for bringing H.R. 3150 to the floor today. It incorporates the core provisions of H.R. 2500 which the gentleman from Florida (Mr. MCCOLLUM) and I introduced last year. That measure was cosponsored by 185 Members of the House, including 40 Members on this side of the aisle, the Democratic side. These core reform measures are a part of H.R. 3150, and they truly have bipartisan support.

A central tenet of the reform is the needs-based test for chapter 7 that was just described in the statement by the gentleman from Florida (Mr. MCCOLLUM). That is the complete liquidation provision under the bankruptcy law. Under that approach bankruptcy filers who could pay a significant amount of their debts would no longer be able to get complete liquidation. If they wanted bankruptcy protection, they would be required to use chapter 13 and then make whatever payments they could afford under a court supervised repayment plan. And the needs-based reform is essential to this measure that we have before us and to achieving genuine bankruptcy reform.

During the 12-month period that ended on March 31, there were 1.37 million personal bankruptcy petitions filed across the country, and that was an increase of almost 25 percent over the previous year. That increase in personal bankruptcy filings occurred during the best economy that we have had in this country in decades, and so we would have expected exactly the opposite result, fewer bankruptcy filings rather than more. And yet in that 1 year period we had a 25 percent increase.

The dramatic increase is caused, I think, by several factors. First of all, an attitudinal change among many Americans who no longer view bankruptcy as a last resort but view it as a first opportunity and treat it today as a financial planning tool and today engage in bankruptcies of mere convenience. The bankruptcy system was never intended to function that way. The bill before the House would return chapter 7 to its intended use by making it available for those who need it and requiring that those who can pay their debts, we pay a substantial portion of those by filing under chapter 13.

Mr. Chairman, that change will benefit all consumers of goods and services and all responsible borrowers. Today about $44 billion in consumer debt is wiped out each year through bankruptcy filings. That wipeout of $44 billion in debt carries a hidden tax of about $400 on the typical American family. That reflects the higher prices that are charged for goods and services by merchants whose debt is wiped out in bankruptcy and reflects the higher credit cost, interest charges, that are imposed by lenders, many of whose debts are wiped out in bankruptcy as well.

The enactment of H.R. 3150 would significantly lessen that hidden charge, and it is my privilege to appear today in support of this measure, and I strongly encourage its passage by the House.

Mr. NADLER. Mr. Chairman, I yield 3½ minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, as someone who has worked on bankruptcy revision as a lawyer in the past, I cannot stand here and say that the existing system is perfect. In fact it is not perfect, and there are areas in which reform is warranted. However, I do not believe that H.R. 3150, the bill before us, provides an acceptable answer to the defects that currently exist.

Much has been said about why we are seeing this increase in bankruptcy filings. It is clear that part of the reason is the massive increase in the amount of unsolicited and unwarranted credit that is being promulgated throughout our country.

Last week my little girl received an unsolicited, preapproved credit card application at home. I was of a mind to let her take the card since creditors cannot collect against minors in California, but instead we ripped it up.

Because of the problems of this bill, Congress has seen an unprecedented response from people who do not ordinarily become involved in legislative matters of this kind, including bankruptcy judges from all over the United States who have urged us to stop this process because of the bill's unintended consequences.

Much has been said about the impact on women and children, and I wanted to note as a member of the Committee on the Judiciary I did support the minor amendments made during committee mark-up to try to address the issue of child support, but they did not fix the problem. In fact, the National Organization for Women wrote after the markup, ''The Judiciary Committee adopted a number of amendments supposedly to cure the problem of having past due child support and alimony obligations compete with credit card debts, but careful analysis shows these changes are only cosmetic. There are still substantial problems with H.R. 3150.''

I believe that is why 20 women's organizations have contacted us to tell us they oppose this bill, including such organizations as the American Association of University Women, the Business

and Professional Women of the United States, Church Women United, the Older Women's League and the YWCA of the United States of America.

There is another issue that I think needs to be raised for those of us who come from high cost States, and that is the probably unintended, bias against certain parts of our country. Recently I was contacted by a bankruptcy attorney in Santa Clara County. This is a lawyer who teaches bankruptcy law, who represents creditors in addition to debtors, and he says that the nationwide income standard used in the qualifications test for chapter 7 would eliminate most residents of Santa Clara County, in fact most of urban California, from eligibility to file chapter 7.

Further, if an individual is able to meet the test, the housing allowance is a further disadvantage. Urban Americans will no longer be able to file for bankruptcy.

As someone whose family has lost income to someone who filed for bankruptcy, I do not like it, I understand that no one likes it, but there is a reason for bankruptcy law, and that is so that one can fail in America and yet continue to have a life. That is why bankruptcy is provided for in our Constitution, and I will quote the CEO of a high-tech company who said this to me and Chairman HYDE in Los Angeles a week ago. ''We innovate in this country because we have the freedom to fail. That is what our bankruptcy laws do. Do not change it, do not ruin it.''

Mr. GEKAS. Mr. Chairman, I yield myself such time as I might consume.

It is interesting; I bring this to the attention of the gentlewoman from California who has been in the forefront of expressing concern about the support quotient in 3150 wherein the California Family Support Council, which I assume is statewide in California, endorses enthusiastically the measure 3150 and all that it contains with respect to support. I commend that to her reading and ask her to consider voting for the bill.

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I am a lead sponsor of this measure because the bankruptcy system in this country is not serving the national interest. What used to be the option of last resort has too often become the preferred option of choice, and so a legislative fix is vital to distinguish between those who truly need and deserve a fresh start and those capable of assuming greater responsibility and making good on at least some of what they owe.

Mr. Chairman, unless steps are taken now to reform the bankruptcy system while economic times are good, we will not have the political resolve to fix it when the economy is not as strong. Today wages are up, unemployment is down, interest rates and inflation are low, but the rate of personal bankruptcies has increased dramatically. Last year personal bankruptcies rose 20 percent, reaching a record high of 1.4 million files. Think about it. More people filed for personal bankruptcy than graduated from college last year. What does that say about our country?

And while many would like to blame the credit card industry for the sharp increase in bankruptcy filings, it is important to note that the credit card industry is not the impetus for the current bankruptcy crisis. More than 96 percent of credit card holders pay bills as agreed to, and only 1 percent ever end up in bankruptcy.

According to a Federal Reserve Board survey last year credit cards account for a mere 3.7 percent of consumer debt, hardly large enough to cause the current bankruptcy crisis. While many may still want to vilify the shylocks of Shakespeare's day, the credit system of today is far more democratized. Creditors today include Main Street merchants who often sell products under installment plans, credit unions who include most Members of Congress and even State and local governments.

Mr. Chairman, I have a letter here that I got from Mattress Discounters. These people have a customer base that is almost exclusively moderate income families who need their purchasing installment plan. Now they tell me that they receive almost 3,000 consumer bankruptcy notifications each month, 36,000 a year, and the cost to the company has risen to over $30 million a year. The irony of this situation is that the average debtor filing for bankruptcy protection has assets exceeding $184,000. But because of this consumer bankruptcy, the company had to close 50 stores across the country, and that meant the loss of jobs in communities all over the country as well as the fact that their customer base of moderate income people does not have access to this line of credit.

□ 1445

People need that, and yet if we don't fix this system, we are foreclosing their credit opportunities.

Mr. Chairman, the key issue is that it is not fair for households who pay their debts to pay $400 a year in added expenses to compensate for the bad debts of their neighbors who do not pay their debts. I hope Members will support this bill.

Mr. NADLER. Mr. Chairman, I yield two minutes to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, I come before the House today as a supporter of bankruptcy reform. It will enable creditors to collect some debt that is currently being discharged through bankruptcy and that would channel debtors who can afford to pay a substantial portion of their unsecured debts into Chapter 13 repayment plans.

Having said that, Mr. Chairman, let me now say that I come before the House today in opposition to this bill, H.R. 3150. There is nothing inconsistent about supporting pro-creditor bankruptcy reform and opposing H.R. 3150. The fact is, you can means test eligibility for Chapter 7 without relying on rigid IRS expense standards to evaluate a debtor's ability to pay his or her debts. You can means test without permitting aggressive creditors to target low and moderate income debtors with expensive and protracted and contentious litigation over their bankruptcy rights. You can address manipulation of the bankruptcy system by high income debtors without simply declaring large amounts of credit card debt to be exempt from discharge.

In short, you can replace H.R. 3150 with the Nadler-Meehan-Berman substitute. The result will be a balanced bankruptcy reform that enhances creditor recovery without drastically diluting the fresh start for financially strapped debtors or impeding alimony and child support collection.

On the other hand, voting yes on an unamended version of H.R. 3150 would send to the conference committee an unbalanced bill, and the Senate wants nothing to do with that and the Clinton Administration will veto this bill. That route is dangerous for the most vulnerable debtors and dangerous for the prospects of prompt bankruptcy reform.

I urge my colleagues to do the right thing and support the substitute and reject the unamended version, this bill, of H.R. 3150.

Mr. GEKAS. Mr. Chairman, I yield two minutes to the gentleman from Delaware (Mr. CASTLE).

(Mr. CASTLE asked and was given permission to revise and extend his remarks.)

Mr. CASTLE. Mr. Chairman, I thank the gentleman very much for yielding me time. I join the gentleman in his strong support for H.R. 3150.

Mr. Chairman, I must say that hearing these arguments, we need to understand that when anybody files for bankruptcy, somebody else has to suffer. Generally when you had it up, the entire United States of America suffers. We have heard some facts, but I think we need to repeat some of these facts as well as to what is happening in bankruptcy in the United States today.

It is incontrovertible in my mind that we are in a bankruptcy crisis in this country. Personal bankruptcy's have risen 400 percent since 1980. Over 1 million people filed for bankruptcy in 1997, which cost consumers $40 billion in higher prices and interest rates from the debts that was erased. That averages to $400 per household in the United States of America. Some studies estimate that 14 responsible borrowers are needed to support each irresponsible borrower who files for bankruptcy. Those are unbelievable figures in a time of perhaps the greatest economic prosperity in the history of the United States of America.

What we have here in this legislation is a very strong first step. This is not

an ultimate solution to the bankruptcy problems. There is wide disagreement and too few facts right now for Congress to fashion an omnibus bankruptcy reform act that pinpoints exact causes of bankruptcy, and we do not know what that is. We need to look whether or not it is credit cards, and there may be some evidence of that, or gambling or other debts that caused that. But this legislation allows us to do it and it strengthens the system.

First, it establishes a system of data collection in the Federal bankruptcy courts to determine who, when, where, why and how people file for bankruptcy. We absolutely need to have that information and that knowledge. We do not have it today.

Second, it forces debtors to receive private credit counseling before filing for bankruptcy and unloading their debts on American consumers. That also is needed. Perhaps people need to be told what they have to do.

Third, it forces people who have the ability, the ability to pay for their unsecured debts, to file under Chapter 13 of the bankruptcy code and repay their creditors. These are good things. We should do it and support this legislation.

Mr. Chairman, I rise today to express my strong support for H.R. 3150, the Bankruptcy Reform Act of 1998. The facts are incontrovertible that the United States is in a bankruptcy crisis. Personal bankruptcies have risen 400 percent since 1980. Over a million people filed for bankruptcy in 1997 which cost consumers $40 billion in higher prices and interest rates from the debt that was erased. That averages to $400 per household. Some studies estimate that 14 responsible borrowers are needed to support each irresponsible borrower who files for bankruptcy.

Congressional oversight of this issue is long past due, and I am pleased to see that the House Judiciary Committee, through the leadership of Representative GEORGE GEKAS, Chairman HENRY HYDE, and Representative RICK BOUCHER, has reported H.R. 3150 as a strong first step toward addressing the bankruptcy crisis.

I say ''strong first step'' because no one should be disillusioned that H.R. 3150 is the ultimate solution to the bankruptcy crisis. There is wide disagreement and too few facts for Congress to fashion a omnibus bankruptcy reform bill that pinpoints the exact causes of bankruptcy. Despite evidence that only 1 percent of credit card holders file for bankruptcy in any given year, some have suggested that credit card companies who overextend credit to irresponsible borrowers are to blame. Others point to casinos and gambling institutions as the principal cause. Still others blame our culture of consumerism and a lack of education about managing money and personal finance. The truth is we do not know the cause, but we know the problem is serious.

Herein lies the strength of H.R. 3150. The bill takes the only steps we can all agree on. First, it establishes a system of data collection in the Federal bankruptcy courts to determine who, when, where, why and how people file for bankruptcy. With this data, Congress in the years to come can address the root cause of bankruptcies with wisdom and confidence we do not have today.

Second, it forces debtors to receive private credit counseling before filing for bankruptcy and unloading their debts on American consumers.

Third, it forces people who have the ability to pay more of their unsecured debts to file under Chapter 13 of the Bankruptcy Code and repay their creditors over 5 years according to a court-approved repayment plan. According to the bill's means-testing formula, debtors whose income is greater than 100 percent of the national median family income must develop a plan to repay their unsecured creditors if they have the ability to pay at least 20 percent of their unsecured debt and have more than $50 in their pocket each month after paying their secured debts (car payments, home mortgage, etc.), priority debts (alimony, child support, back taxes, etc.), living expenses.

A recent Consumers League Poll reports that 76 percent of Americans believe that individuals should not be allowed to erase all their debts if they are able to repay a portion of what they owe. With such a groundswell of support from the American people the choice is simple. A vote against H.R. 3150 is a vote for irresponsible debtors and a vote against the 14 responsible consumers needed to pay for each bankruptcy filed. I urge you to vote in favor of H.R. 3150.

Mr. NADLER. Mr. Chairman, I yield 5½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

(Mr. DELAHUNT asked and was given permission to revise and extend his remarks.)

Mr. DELAHUNT. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, we have heard a lot today about personal responsibility and that individuals must be held accountable. Now, no one disagrees with the principles of personal accountability and responsibility. The problem, however, with the rhetoric, is that there is no data, no evidence, no credible research. The gentleman from Delaware was absolutely correct. But there is no information to establish a link between the dramatic increase in personal bankruptcy and the change we are told that has taken place in people's attitudes about bankruptcy.

There is an additional issue of accountability and responsibility here, but it is one of corporate responsibility. Because while no one really knows the cause of the increase in bankruptcy filings, I submit it is more likely that the increase is the result of irresponsible lending practices by the credit card industry.

I agree with a noted consultant to the industry itself who stated, ''The principal factor in the increase of bankruptcies has been the dramatic lowering of loan standards over the past five years.''

A respected Wall Street analyst agreed with him and was quoted recently in the Congressional Quarterly. ''The bank and other credit card lending institutions brought this problem upon themselves. They shot themselves in the foot by using some of the weakest and most pitiful loan underwriting techniques that I have ever witnessed.''

Well, as others have said, we have all experienced the aggressive marketing tactics of the credit card industry. More than 3 billion solicitations were issued last year, 30 for every family in America.

Let us talk about responsibility. Let us look at just one of these solicitations. It is in the form of a check. It was sent to my daughter. Let me highlight some of the comments on the check.

''This $2,875 check is real. Your signature on the back is all that it takes to turn your live check into cash.''

Another observation: ''Book a terrific spring break vacation.''

Another comment: ''Treat yourself, your family or friends.''

Another statement: ''Need more than $2,875? Just call us if you want to make even bigger plans for this spring.''

There is a p.s. too. ''This offer expires May 18, 1998. Have a question about this offer? Just call.'' ''Just call.'' ''For your protection, please destroy this check if you decide not to cash it.''

Is this corporate responsibility? Is this sound responsible lending? Well, my daughter is a full-time student who lives at home and has no regular income. It is so ironic to hear representatives of the credit card companies and others here pontificate about personal responsibility.

You all know from your own personal responsibility that they are relentless in their pursuit of customers and profit, and that is good. But regardless of the target's age, lack of sophistication, vulnerability, and even bad credit history?

Let me just read a story for you for a moment from the Wall Street Journal of March of this year. ''Rick and Christie Fetterhoff of Harrisburg, Pennsylvania,'' and I think the Chair of the subcommittee is from Pennsylvania, I do not know if he knows this couple, but it has been reported, ''have been in Chapter 13 bankruptcy protection since November 1995. But within the last several months, they have received, among other pitches, $5,000 loan offer checks from Banc One Corporation and Capital One Corporation and the promise of $250,000 to $500,000 from New Century Mortgage Corporation if they would just sign up.

''I was going to try to send some in, admits Mrs. Fetterhoff, who has more than $160,000 in debt, but I said no, no. It is tempting.'' And the credit card industry preaches personal responsibility?

Now, few in this chamber are sympathetic to that sort of hypocritical argument when it comes from the tobacco companies or the liquor industry or the gaming interests. Well, we should not let the credit card industry get away with it either.

If this bill becomes law, the result will be the use of hundreds of millions of dollars of taxpayer dollars to create a publicly funded collection agency to increase the profitability of credit card companies. So let us focus on responsibility ourselves and defeat this bill.

Mr. GEKAS. Mr. Chairman, I yield three minutes to the gentleman from New Jersey (Mr. ROTHMAN).

(Mr. ROTHMAN asked and was given permission to revise and extend his remarks.)

Mr. ROTHMAN. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me time.

Mr. Chairman, there is something wrong with the following picture. Last year, in the midst of our country's greatest economic growth of this generation, America saw a record number of bankruptcies, 1.4 million. This year, as America's economic expansion continues, America will set a new record for bankruptcies. But record number of Americans are not going broke. They are simply taking advantage of a bankruptcy system that encourages people to avoid paying their debts. That is what is wrong, and we have to stop those abuses.

When people who can afford to pay their debts do not, guess who picks up the tab? Working and middle class families, because companies charge higher prices to make up for those losses.

We need a bankruptcy system to give truly needy Americans a fresh start. But it must be a bankruptcy system with integrity, designed to encourage personal responsibility, not to discourage it.

The new bankruptcy reform bill, H.R. 3150, will do just that. It still gives people who cannot afford to pay their debts the ability to declare bankruptcy and to get a fresh start. But it will require people who can pay back their debts to do so.

Make no mistake about it. Under this bill, any American who chooses to go bankrupt can still go bankrupt. But if the person has the means after they pay their child support and alimony, after they pay off their secured debts and living expenses, if they still can pay off 20 percent of their remaining debt, then they should be required to pay back that debt. It is simply good personal responsibility.

Hard-working middle-class taxpayers who play by the rules have a hard enough time paying their own bills. They should not have to pay the bills of those who run up debts they can afford to repay, but who simply choose not to repay the debts.

When I was practicing law, I worked with a great many small business people who were taken advantage of by someone or some company who owed them money, but who simply misused and abused the out-of-control bankruptcy system to make victims out of those small business people.

□ 1500

We need to protect the hardworking Americans and consumers who are the innocent victims of our present out-of-control bankruptcy system.

Therefore, I urge my colleagues to support the Bankruptcy Reform Act of 1998. It protects our families, it protects our small businesses, and it restores some measure of personal responsibility to our out-of-control U.S. bankruptcy system.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY) with the promise that she will come back later.

Mrs. KELLY. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding to me the time to clarify some very important provisions of this legislation.

Mr. Chairman, I rise today in strong support of H.R. 3150, the Bankruptcy Reform Act. Some of my colleagues would have us believe that this legislation would undermine alimony and child support. All arguments to this effect are pure distortion of the actual language of this bill.

This bankruptcy reform legislation before us today does nothing of the sort. In reality, it strengthens the Bankruptcy Code's protections for ex-spouses and children.

I will quote to my colleagues a May 13 nonpartisan Congressional Research Service memorandum: ''No provisions in H.R. 3150 would repeal the current protections that child support receives. The bill would reinforce the legal status of these payments in some ways.''

H.R. 3150 is quite clear that the child support and alimony must be paid first and in their entirety before a single dollar is paid out to nonpriority, unsecured creditors. This priority holds even where an ex-spouse who has the obligation to pay alimony has drawn on an unsecured credit line to pay marital obligations.

As a constant fighter for the rights of ex-spouses to have first priority to every cent of assets, I would vehemently oppose any legislation that would reduce the ability of women and children to receive support payments.

If people would take the time to read this legislation, they would see that H.R. 3150 will benefit, not harm, child support and ex-spousal support.

Members can speak to the possibility that future Congresses may change bankruptcy law, but let us keep the debate focused on the effects of this bill. H.R. 3150 strengthens the rights of ex-spouses and children to receive support before any other creditor.

Mr. NADLER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, the best of all worlds would be that this is a distortion, that in fact we could conclude at the end of this debate that we were just spewing out words and in fact we could vote for H.R. 3150 as the right kind of legislation.

But might I share with my colleagues some of the facts that are real in this issue. We do all need and are committed to personal responsibility, each and every one of us. In fact, we teach it to our children. The last thing we want to get is a phone call at work saying we owe some money.

But let me share with my colleagues, Mr. Chairman, the real truth of the American public. Some years ago, the American public filed bankruptcy with only 70 percent debt. Today, the American public waits and strains themselves and only files bankruptcy when their debt is 164 percent of income. That is the average working man and woman who every day brings home under $50,000 a year and tries as they may to make ends meet.

This bankruptcy bill kicks them out of the courthouse and tells them, off to the curb with you, smother yourselves with debt. You are nothing but deadbeats.

H.R. 3150 could have been a bipartisan bill if we had the opportunity to have hearings and documentation of how best to treat this problem. There are 3 billion contacts with Americans every day promoting utilization of credit over and over again.

This is why I am against this particular legislation, because 300,000 people engaged in the bankruptcy filings of 1.3 million are divorcees and mothers and custodial parents seeking to get child support and alimony.

It does impact child support and alimony. It is not corrected by any of these amendments. Once the bankruptcy proceeding is over, once the prioritization has been made, when people have to pay their debts, credit card monies are equal to their child support.

While one is in the bankrupt situation, one is required and is responsible for paying both of them. Who has a greater leverage to force one to pay? That parent with the child who is trying to get their child support payments? Absolutely not. It is the credit card company and others who can call over and over and over again.

I have heard from my constituents in Texas and across this Nation how they have lost jobs because of the credit card companies who have sought to over and over again be able to repeat to them that they have not paid.

If this bill was the kind of bill that all of us could support, my colleagues can rest assured we would be right here, because we believe in the American system and the American way of doing what is right, making sure that small businesses are protected.

I support an amendment to study what happens to small businesses when they go into bankruptcy. But we have so many groups that are against this. We have the Lawyers for Children In America, Federally Employed Women, Legal Defense and Education Fund, the American Nurses Association, Women United for Action, Women's Policy Center, Church Women United. We have the Clearinghouse on Women's Issues, Coalition of Labor Union Women.

This is a bad bill. The administration is against this bill. I simply ask, send it back to committee. Let us do what is right for the country.

I am strongly opposed to H.R. 3150 and I encourage my colleagues to also vote against the bill. H.R. 3150 unnecessarily burdens the right of bankrupt debtors to have a fresh start by creating a formula which forces bankruptcy filers to involuntarily enter Chapter 13 if they meet certain arbitrary income qualifications.

This approach to bankruptcy reform has been opposed by the Executive Office of the President, 110 federal Bankruptcy Judges as well as a coalition of 57 well respected Bankruptcy Law professors.

This bill is not about personal responsibility, it is about the redirection of bankruptcy filers, to banks, credit card companies and credit lending institutions, and in turn, this bill will hurt a lot of women and children who are dependent on child and spousal support.

This bill subordinates the needs of support recipients to credit card companies like Master-card and Visa. As the First Lady said in a May 7 article, ''I have no quarrel with responsible bankruptcy reform, but I do quarrel with aspects of this bill that would force single parents to compete for their child support payments with big banks trying to collect credit card debt.

I have received numerous letters from my constituents in Houston, who are concerned about the effects of this legislation. One such letter is from a student graduate supporting a wife on a limited income, worried that with new changes in the code, he will not be able to adequately support his family. Another is from a debtor whose financial responsibilities became overwhelming and is concerned that he will be unable to support his children and his ex-wife and pay off his non-domestic creditors under the new code.

Any effort to reform the bankruptcy system must protect the obligations of parents to support their children. This bill is a new and catastrophic threat to our children who rely on child support.

According to a recent study by the U.S. Department of Health and Human Services, between 1978 and 1991, 21–28 percent of poor children in America did not receive any child support from their non-custodial parent, and child support is an issue critical to the well-being of our nation's children. During 1997, an estimated 300,000 bankruptcy cases involved child support and alimony orders. In about half these cases, women were creditors trying to collect alimony and child support from their bankrupt ex-husbands and others. In about half of these cases, women were forced to file for bankruptcy themselves as they tried to stabilize their post divorce economic condition. In the past five years, well over a million women collecting alimony and child support have been involved in bankruptcy cases.

In 1994, one in every four children lived in a family with only one parent present in the home. Half of all children in the United States spend at least a portion of their childhood in single-parent homes.

While these figures are truly striking in their own right, we cannot begin to truly understand their impact on our nation's children without considering the fact that half of the 18.7 million children living in single-parent homes in 1994 were poor, and 70 percent of African American children growing up in a single parent household lived at or below the poverty line. Poor children in single-parent families rely on child support from their non-custodial parent as a crucial source of income.

In 1997, I co-sponsored H.R. 2487, the Child Support Incentive Act, legislation which reformed the child support incentive payment plan and improved state collection performance. And today, I am speaking before you because children's access to child support is once again being threatened. We need to keep our children a priority.

According to records from the U.S. Department of Health and Human Services, 31 million children are currently owed over 41 billion dollars in unpaid child support. When credit card companies and children compete for the same money, we know that it is likely that the most aggressive and powerful creditors will succeed.

We must counter this potential disaster to children relying on their parent's continued support. We need to maintain the priority of those parents seeking to collect owed child support from a bankrupt debtor. This can be done without removing the tools needed for credit card companies to effectively root out fraudulent debtors. Our children are our future and when it comes to paying off debt, children and women should come first, and we must remember this when we are voting today.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT). I am glad to do that. The gentleman from Ohio (Mr. CHABOT) has produced innovative and powerful concepts in the work of the Committee on the Judiciary over a period of years, and I am glad to have his support on this legislation.

(Mr. CHABOT asked and was given permission to revise and extend his remarks.)

Mr. CHABOT. Mr. Chairman, I would first like to thank the gentleman from Illinois (Mr. HYDE) and the gentleman from Pennsylvania (Mr. GEKAS) for their hard work and leadership in putting this bipartisan, and it clearly is bipartisan, legislation together and moving it forth so expeditiously.

This important legislation will protect consumers and businesses from creditors who are capable of paying their debts but who choose to hide behind bankruptcy protection instead of paying. In particular, this legislation would reestablish the link between one's ability to pay and one's ability to discharge debt by instituting a needs-based reform in the bankruptcy system.

In a time of solid economic growth and low inflation and low unemployment, it is absolutely astounding that there were a record 1.4 million consumer bankruptcies in 1997. This represents a sevenfold increase in the number of consumer bankruptcies since 1978 when the bankruptcy laws were last reformed. These numbers are expected to increase even further this year.

The primary culprit for this dramatic increase in the number of consumer bankruptcies is a system that discourages personal responsibility. Our current bankruptcy laws often allow those who can afford to pay their bills to, instead, declare bankruptcy and walk away debt free.

When someone who can afford to pay their bills does not and they file bankruptcy, who pays? We all do. We all pay for it at about $400 a year per American family in higher prices; and it is, in essence, a tax on the American public, a tax on debt.

Mr. Chairman, I believe that H.R. 3150 makes significant steps in ending this practice, and I hope the President will sign this legislation quickly, although one never knows, so that we can give hardworking American families protection from those who abuse the bankruptcy system and leave others holding the bill. There clearly are many instances in which people truly need bankruptcy. But let us stop the abuses. That is what this legislation does.

Mr. NADLER. Mr. Chairman, could I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from New York (Mr. NADLER) has 2 minutes remaining, and the gentleman from Pennsylvania (Mr. GEKAS) has 3½ minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER), but with the invitation to return to the floor later for an additional period of time.

Mrs. TAUSCHER. Mr. Chairman, I accept the gentleman's invitation.

Mr. Chairman, I rise to strongly support this legislation to reform bankruptcy. This legislation would change bankruptcy laws to promote personal responsibility, ensure that more of the people who file for bankruptcy repay at least a portion of what they owe.

If, after accounting for all reasonable household expenses each month, the filer has enough money to pay some of his debt, he will be required to do so. This fair and reasonable test protects the most needy while it insists on repayment by the most irresponsible.

The stigma that was once attached to bankruptcy has disappeared. The growing number of filers indicates that people today are less concerned about the social implications of bankruptcy. It is our job to replace that social stigma with legislation that fills the gaps in bankruptcy law and demands responsible behavior by individuals.

I urge my colleagues to support this important legislation.

Mr. GEKAS. Mr. Chairman, I must at the risk of boring the Chair ask how much time is remaining.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GEKAS) has 2½ minutes remaining. The gentleman from New York (Mr. NADLER) has 2 minutes remaining.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, everyone should remember that the debate in this House today is not over personal responsibility. The debate is not over whether people who can pay their debts should pay their debts. Everyone agrees to that.

The debate, Mr. Chairman, is over the measure of the test. That is the first debate. Should it be, as the bill

before us has it, an automatic test with no judge there? Should it be a test that looks not at actual expenses and actual facts, but at what the Internal Revenue Service says in its guidelines might be the facts, not at what your rent is, what your child expenses are, but what the Internal Revenue Service says that for an average person in the Northeast and Southwest of the country it might be?

I submit that this bill does not make sense in saying that we are going to decide how much someone can afford to pay off on his debts by looking at theories as to what his rent might be, what his child expenses might be instead of what they actually are. That is the first question.

The second question is that this bill jumps the line. It takes credit cards and puts them in preference to other debtors, says you cannot have a Chapter 13 plan confirmed unless you can pay $50 minimum for the credit cards. It puts it in preference in practical terms over the child support, over the victims, over the secured debt. It makes no sense except as a reflection of the lobbying and the campaign contributions by the banks and the credit card companies; and that is not the way we ought to distort the law.

Mr. Chairman, I would remind my colleagues that every bankruptcy association, the Bankruptcy College, the Bankruptcy Institute, the trustees, the Chapter 13 trustees, the judges, they all tell us this bill should be rethought and makes no sense.

I would also remind my colleagues the CBO says this is an unfunded mandate in the private sector between $260 million and $1.3 billion and on the public sector of $214 million.

I urge my colleague to think better of it and to vote against this bill.

The CHAIRMAN. The time of the gentleman from New York (Mr. NADLER) has expired.

The gentleman from Pennsylvania (Mr. GEKAS) has 2½ minutes remaining.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. BRYANT), who has been, whether he knows it or not, an unofficial consultant to me personally on the issues surrounding bankruptcy in all its phases.

□ 1515

Mr. BRYANT. Mr. Chairman, I thank the chairman for yielding time to me.

Mr. Chairman, on this issue of child support, let me reference a letter from the California Family Support Council which speaks directly to this point.

I have been informed that there is some opposition to H.R. 3150 based on the premise that support creditors would be worse off if certain credit card debts were made nondischargeable and credit card creditors and support creditors were in competition for the same post-discharge assets.

I can only say that we are in competition with those creditors prior to bankruptcy now. We do not see debts as impairing our ability to collect support, especially in view of the advantages child support creditors have under current State and Federal laws as outlined above. Our problems stem not from the competition with credit card creditors outside bankruptcy, but from the disadvantages we incur as collectors of support under current bankruptcy law during bankruptcy. Your proposed amendments would give support creditors an enormous advantage over other creditors during bankruptcy and greatly aid us in the discharge of our support enforcement responsibilities.

Mr. Chairman, I urge support of this bankruptcy reform.

Mr. GEKAS. Mr. Chairman, I yield the remainder of my time to the gentleman from Michigan (Mr. SMITH), and he and I will engage in a colloquy.

The CHAIRMAN. The gentleman from Michigan (Mr. SMITH) is recognized for 1½ minutes.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman for his efforts to pass comprehensive and common sense bankruptcy reform that will greatly benefit our economy and our taxpayers by lowering interest rates and increasing availability.

On a particular issue, many States such as my home State of Michigan have experienced a sharp increase in the number of long-term placements of children by court order. Tom Robison, the Eaton County, Michigan, probate court administrator, tells me that the cost of just one placement can be as high as $50,000 per year.

Federal courts have determined that when parents declare bankruptcy, they are currently allowed to discharge the debts owed to that particular court and the taxpayer for the costs of this long-term placement.

I introduced H.R. 3711 last April to specifically state in law that such expenses of caring for children could not be discharged by bankruptcy. I thank the chairman for agreeing to this provision we have asked for to make sure that debts owed to the State and municipality or State court of proper jurisdiction for this purpose are not dischargeable.

I wanted to clarify, however, that the definition of ''municipality'' is meant to include probate courts and other local governmental units that have to pay the cost of this care. For that purpose, I would like to enter into this colloquy with the distinguished chairman of the subcommittee, the gentleman from Pennsylvania (Mr. GEKAS).

Mr. Chairman, I would ask the gentleman from Pennsylvania (Mr. GEKAS), if the term ''municipality'' as defined by section 101 of the Bankruptcy Code includes State courts?

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I thank the gentleman, Mr. Chairman, for bringing this issue to full debate here on the floor, and this colloquy. I agree that that is a correct interpretation of the law, and commend the gentleman for bringing the issue as far as it has come. We will work together to consider the full ramifications of the issue before conference.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman.

Mr. DAVIS of Florida. Mr. Chairman, I rise in support of H.R. 3150, the Bankruptcy Reform Act, which, although not perfect, is a strong step in the right direction. The principle behind this legislation is simple. If you can afford to repay some of your debts, you should be required to do so. The fact that in this booming economy there has been a meteoric rise in bankruptcy filings is simply unacceptable. Yes, there are credit companies which unscrupulously dangle credit in front of high-risk consumers; however, the individual must ultimately take responsibility for his or her spending habits.

Protecting the status quo is tantamount to telling all consumers, including low and moderate income families struggling hard to pay their bills, that they will have to continue to pay for the unpaid debts of others, even if those filing for bankruptcy are more affluent and actually capable of paying off some of those debts. Last year, a total of $44 billion in consumer debt was erased through bankruptcy filings. Of course, erasing these debts means transfering that burden to every other consumer—a burden which amounts to roughly $400 for every American household.

While I have concerns over certain provisions included in this legislation, such as the preemption of my home state's constitution with respect to the homestead exemption, I believe it is important to move this process forward and work with the Senate to craft a strong bi-partisan bankruptcy reform bill which returns a sense of personal responsibility to our Nation's bankruptcy system.

Mr. WOLF. Mr. Chairman. I want to express my extreme disappointment with this rule. Representative NADLER had an amendment to this bill which was not made in order. That amendment would have eliminated bankruptcy claims on debts incurred in or adjacent to gambling facilities, or debts that the creditor should have known were intended to be used by the debtor for gambling purposes.

A 1997 SMR Research Corporation study on personal bankruptcy, which I will include for the record, examined the high-risk activities which contribute to bankruptcy. The report reviewed three serious addiction problems in America—drugs, alcohol and gambling—and their effects on personal bankruptcies. Of gambling, the report said, ''It now appears that gambling may be the single-fastest growing driver of bankruptcy.'' It also showed a definite correlation between the presence of gambling facilities and a growth in personal bankruptcies.

The report made a number of recommendations for dealing with the rapid increase in personal bankruptcies related to gambling. The first was, ''Make it tougher for customers to obtain cash advances at gambling casinos.''

Mr. Chairman, Mr. NADLER'S amendment would have been a very important step in stemming the tide of gambling-related bankruptcy. But since it was not made in order, we have been denied the full and open debate that is crucial to better understanding this problem. Therefore, I will vote against this rule.

THE PERSONAL BANKRUPTCY CRISIS, 1997

DEMOGRAPHICS, CAUSES, IMPLICATIONS, & SOLUTIONS

Wild Growth In Filings: More Bad News Ahead.

Age, Income, Education, Population Density, & Geography.

Lawyer Advertising & The Loss Of Stigma.

Why The Tide Of Financial Catastrophes Is Rising.

New Ideas To Reduce Bankruptcy Losses.

THE PURPOSE OF THIS STUDY

In 1996, SMR Research issued a 56-page study on the causes of wildly rising personal bankruptcy filings. We knew the subject was timely, but little did we imagine the media coverage that would follow.

The 1996 study was mentioned in major newspapers and magazines across the land, on television, and even became the subject of two stories in the Wall Street Journal.

Fate is strange. Publicity is nice, but the 1996 study was not exactly a typical SMR production. The explosion in bankruptcies had caused a lot of demand for information from our lending industry clients, especially unsecured lenders. We put together the 56-page piece as a section of our 1996 annual credit card market study, and later offered the bankruptcy section by itself to non-credit card issuers.

Although 56 pages might look big to some folks, it was the shortest research study we have done since 1985. We found ourselves making conclusions in the 1996 study with some statistical backing, but not always definitive proof.

This study, by contrast, is indeed a standard SMR Research work. The scope is much greater, and allows us to cover the subject completely, with a meaty section on solving (or at least mitigating) the personal bankruptcy dilemma. Where the 1996 study focused solely on some of the core causes of bankruptcy, this study covers the full nature of the problem.

We look at the common misperceptions about bankruptcy and provide the statistics that show why they are such vast over-statements. Unemployment is not the primary driver of bankruptcy, nor is the overall consumer debt load. Lender marketing and easy credit also are not the prime cause.

In fact, there is no single prime cause of bankruptcy. In this study, you'll see coverage of many things that result in bankruptcy, with some quantification of which ones are the worst. The additional space allows us to cover things we couldn't cover last year, like the connection between bankruptcy and gambling—perhaps the fastest-growing problem of all.

In addition, this study, for the first time we know of, shows the demographics of bankruptcy, using our county-level statistical database that goes back to 1989.

Regarding solutions to the problem, they are not easy. The bankruptcy spike is based at least in part on serious, intransigent, worsening socio-economic problems. This underlying core puts upward pressure on filings, and the upward pressure really explodes when you throw lawyer advertising and bankruptcy's loss of social stigma into the mix.

Still, we are quite confident that there are steps available to creditors to help control their own bankruptcy loss exposure. We think the best solution of all may be the most radical, which is for creditors to adopt some of the risk-control techniques of the insurance industry. This would mean using actual geographic loss statistics as a supplemental aid in credit scoring, pricing, and marketing. This material appears starting on Page 157.

SMR has been following the bankruptcy subject, and has been building its databases of filings, for eight years. After all that time, we finally have created a research study that we believe addresses all the central issues in the bankruptcy crisis.

We appreciate your patronage and hope you get good value from the research.

STU FELDSTEIN,
President.

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GAMBLING AND BANKRUPTCY

It now appears that gambling may be the single fastest-growing driver of bankruptcy.

Once limited to Nevada and New Jersey, casino gambling has spread very rapidly through many states. Indian reservation casinos have been one new mode for this growth, and riverboat and coastal gambling boats have added more.

If you have not been tracking the spread of gambling, you may be in a shock about how pervasive gambling facilities have become.

Note that in the state of Nevada, there are only 17 counties (most of them very large). But across the nation, there are now 298 counties that have at least one major legal gambling facility; a casino, a horse or dog racing track, or a jai alai game. That's the count in one recent guide to U.S. gambling facilities, and it does not include such things as places where state lotteries or bingo parlors are available. The lotteries and bingo parlors tend to involve small-ticket gambling, whereas the other facilities obviously involve the larger dollars per customer.

THE THREE ADDITIONS & CHANGED MORES

When we published our shorter study on the causes of bankruptcy in 1996, we had suspicions about gambling. But we had not yet put together enough solid data and information to make conclusions, therefore we said little about the subject.

Actually, since we were looking at events that can cause insolvency, we were suspicious in 1996 about all three of the serious addiction problems in America: alcoholism and drug and gambling addiction. We remain suspicious about all three of those problems. But of the three, it's quite clear that gambling is the fastest-growing phenomenon.

For those who make and supply alcohol, drugs, and gambling, all are very large businesses. But you don't have to be a sociologist to see that societal mores are changing most rapidly on gambling. Over the last 20 years, state governments themselves have entered the gambling business with lotteries. We see no states as yet that have gone into the heroin trade or where the government itself advertises Jim Beam. So, the concept of gambling now has the tacit blessing of government.

Meanwhile, private entrepreneurs have created dazzling and sophisticated facilities that have eliminated the ''sleaze'' from gambling and turned it into a recreation. Las Vegas is now a city-sized adult theme park with attractions for the kids, too. American Indians, operating on reservations beyond the authority of state laws, have seized on casinos as a new method to generate cash and improve their standard of living. Cruise ships of all sorts have set up table games and slot machines.

Hard-bitten gamblers of old played poker at tables in a friend's kitchen or sat in cold bleachers to watch the horses. Today's gamblers enjoy the finest food, free drinks, the best entertainment, super-quality hotels, and the widest variety of gambling adventures that have ever been available. And, of course, all of this now happens at places much closer to most of the larger population centers. Gambling can indeed be fun these days—but some smallish percentage of gamblers do develop problems that translate into bankruptcy.

STATISTICS, GAMBLING, AND BANKRUPTCY

As in so many aspects of bankruptcy, perfect data related to the gambling problem don't exist. No one has asked all the bankruptcy filers if gambling contributed to their financial problems, and we strongly suspect that if filers were asked that question, many would be too embarrassed to answer honestly.

But we can look at evidence in many other ways. Recently, for example, we input into our county-level records the numbers of gambling places that exist in each county, if any. We obtained the information, covering more than 800 casinos, race tracks, and jai alai ''frontons'' from the 1997 edition of The Gaming Guide: Where to Play in the US of A, published by Facts on Demand Press of Tempe, AZ. The directory provides street addresses and zip codes for the gaming establishments. We used the zips against SMR's Zip Code/County Matching database to put the right numbers of facilities in the right counties.

Then, we aggregated the bankruptcy rates of those places and compared them to those of counties that have no gambling at all. The bankruptcy rate was 18% higher in counties with one gambling facility and it was 35% higher in counties with five or more gambling establishments.

This exercise probably understates the seriousness of the problem, since many counties that have gambling facilities also have very small populations and actually draw their customers from other places.

So, when we look only at counties with more sizeable resident populations and gambling facilities, we see even greater evidence of the problem.

A LOOK AT THE MAP

The effect of gambling on bankruptcy seems quite clear when you look at a map. Among all the counties in Nevada, for instance, we find that the closer you come to Las Vegas and Reno, the higher the bankruptcy rate.

In New Jersey, casinos are permitted only in Atlantic City—and that's also where the resident population has by far the highest bankruptcy rate. Generally speaking, the closer you come to Atlantic City, the higher the bankruptcy rate in New Jersey. One exception to this rule is Cape May County, just south of Atlantic City, where the bankruptcy rate is not so high. But Cape May also is a big retirement place with a high average age in the population. As shown in our demographics section, high-age populations do not have high bankruptcy rates.

In California, the two counties with the highest bankruptcy rates are Riverside and San Bernardino. They also happen to be the two counties closest to Las Vegas. The

fourth-highest bankruptcy rate in California is in Sacramento County, which is closest to Reno.

In Connecticut, the map hardly matters. Connecticut is so tiny that everyone has access to the gambling parlors in the middle of the state. This is a state that used to have a bankruptcy rate far below the national average. But Indian casino gambling is now huge and well-entrenched. The smaller of the Indian casinos, the Mohican Sun in Uncasville, boasts 3,000 slot machines. In Connecticut, the bankruptcy rate per capita has risen more than twice as fast as the national rate of increase since 1990.

WHAT THE EXPERTS SAY: SCOPE OF THE PROBLEM, AND THE CREDIT CARD CONNECTION

Aside from these observations, we set out this year to interview many of the leading U.S. experts on gambling, gambling addition, and the financial impact of gambling.

Their studies have suggested, fairly consistently, that more than 20% of compulsive gamblers have filed for bankruptcy as a result of their gambling losses. They also show that upwards of 90% of compulsive gamblers had used their credit card lines to obtain funds for gambline and then lost. The same studies show that problem gamblers have a lot of credit cards on which to draw.

''One of the things we know about problem gamblers is that they tend to have lots and lots of credit cards and those credit cards have been maxed out in terms of their credit limits,'' said Rachel Volberg, one of the leading researchers into problem gambling in the U.S. and internationally. Volberg is president of Gemini Research, a consulting firm in Roaring Spring, PA. She is a frequent ''expert witness'' on the problem in state legislative hearings and has done research under contract for various government units in Oregon, Colorado, New York, California, Michigan, Mississippi, Georgia, Louisiana, Iowa, Connecticut, and Canadian provinces.

Volberg is not the only researcher to note the connection with credit cards. ''It's not unusual for problem gamblers to have eight to 10 credit cards,'' adds Henry Lesieur, professor of criminal justice at the University of Illinois, Normal, another leading authority on compulsive gambling.

The amount gamblers owe is quite large. According to studies of Gamblers Anonymous members in Illinois conducted in 1993 and 1995 by Lesieur, the median average lifetime gambling debt of those surveyed was $45,000, and the median amount owed at the time they entered GA was $18,000. The median is the midpoint of a list of numbers, with 50% of the numbers being higher and the other 50% being lower.

However, the mean average debts of problem gamblers were far higher than the median amounts. The mean average lifetime gambling debt of those surveyed was $215,406, with three people saying they owed $1 million or more. The mean debt upon entering GA was $113,640, including one person who said he owed $1 million and another admitting to owing an incredible $7.5 million.

In another study dated April 1996 by the University of Minnesota Medical School, a survey of problem gamblers in Minnesota found the average lifetime gambling debt was $47,855, although individual amounts ran into the hundreds of thousands of dollars. The median amount was $19,000. Recent debts—those accumulated in the past six months—averaged $10,008, while the median amount was $4,500.

In late 1995, the Minneapolis Star Tribune examined 105 bankruptcy filings made in that city in which it was determined that gambling was a factor. The results of the study appeared in a five-part series that ran in the paper in December 1995.

The newspaper found that of the $4.2 million of total debt declared by the 105 filers, $1.14 million—or 27%—was comprised of gambling losses. Almost half of the 105 filiers—52, to be exact—claimed they had gambling losses. Their average debt was $40,066, which was more than the average annual income of $35,244. The average gambling loss was more than $22,000. Filers carried an average of eight credit cards, although many had 10 or 15 cards and one person had 25. And heavy debts were being carried on each card.

COUNTIES WITH GAMBLING HAVE HIGHER BANKRUPTCY RATES

Let's return to the county-level data. In the table that follows, we divided up the country amount counties with gambling facilities and those without. The differences in bankruptcy rates between them are striking. It's quite clear that those counties with legal big-ticket gambling have higher bankruptcy rates than those counties that don't have gambling, and those counties with many gambling houses have higher bankruptcy rates than those places with just a few.

We examined more than 3,100 counties. For the entire United States, the personal bankruptcy filing rate per 1,000 population in 1996 was 4.20. But the national rate for purposes of comparison to counties was 4.22 (using 1996 bankruptcies divided by 1995 populations; the 1996 county populations were not available when we did this analysis). For the 2,844 counties without gambling, the bankruptcy rate was lower, at 3.96.

According to The Gaming Guide, there were 298 counties that had legalized gambling within their borders. In these counties, the bankruptcy filing rate in 1996 was 4.67, or 18% higher than for those counties with no gambling. When we subdivide the universe of counties with gambling between those with five or more locations and those with four or less, we learn more. The places with the most gambling facilities have a much higher bankruptcy rate.

Of the 298 counties with gambling, 275 had only one to four facilities. Their combined 1996 bankruptcy filing rate was 4.53 per 1,000 residents, or 14% greater than the 3.96 rate among counties without gambling. However, in the 23 other counties with five or more gambling facilities, the combined bankruptcy rate was 4.33, a whopping 26% higher than the 4.22 national bankruptcy rate and 35% higher than at counties with no gambling at all. Many of these counties with 5+ gambline facilities are in Nevada, but most of them are not.

BANKRUPTCY FILING RATES IN U.S. COUNTIES WITH GAMBLING FACILITIES VERSUS COUNTIES WITH NO GAMING ESTABLISHMENTS

[Gambling facilities include land, tribal, and boat casinos; dog, horse, and harness race tracks, and jai alai frontons]

	No. of counties	Aggregate population	1996 bankruptcy filings	1996 filings per 1000
All Counties with Gaming Facilities	298	97,385,935	454,384	4.67
Counties with 5+ Gaming Facilities	23	16,391,661	87,435	5.33
Counties with 1–4 Gaming Facilities	275	80,994,274	366,949	4.53
Counties with No Gaming Facilities	2,844	166,526,572	658,724	3.96
All U.S. Counties	3,142	263,912,507	1,113,108	4.22

Again, these data tell only part of the story, since some gambling parlors (especially tribal casinos) are located in thinly populated places and draw almost all their customers from other places.

So, it's important to also look at more populous areas located very near to gaming facilities. Indeed, not only do many gambling facilities draw from other nearby population centers within the U.S., but in addition there are many legal casinos in several Canadian provinces. These often are located just beyond the U.S. border and cater to American gamblers in the Detroit area, upstate New York, and other northern states.

Thus, we believe many counties have high bankruptcy rates tied in part to gambling, yet the county doesn't register in our table as a ''gambling'' county. If we included counties contiguous to those places with legalized gambling, we're sure the numbers would show an even stronger correlation between high bankruptcy rates and gambling. The following mini study of the Memphis, TN, area illustrates our point.

LAS VEGAS EAST: WOULD YOU BELIEVE IT'S TUNICA COUNTY, MS?

In the table below, we show the 24 counties in the U.S. with the worst U.S. bankruptcy filing rates in 1996 (10.0 or more filings per thousand residents) and where the population is greater than 25,000.

A significant number of these worst places share one trait—all are within easy reach of major gambling casinos. This is true of just about all of the counties on the list that are located in Tennessee, Mississippi, and Arkansas.

Neither Tennessee nor Arkansas has legal casino gambling within its borders. In fact, neither state even has a lottery, for that matter. Yet, several of their biggest counties are located near the 10 major riverboat casinos in Tunica County, MS. Tunica is located in the extreme northwest corner of Mississippi, just south of Memphis, TN. According to The Gaming Guide, Mississippi has the largest amount of ''gaming area''—that is, square feet of casino gambling—in any state outside Nevada. And most of that gaming is centered in Tunica County. Major casinos are also located in the Biloxi-Gulfport area on the Gulf of Mexico.

The profusion of super-high bankruptcy rates among the counties located near the Mississippi River casinos in Tunica County is quite remarkable. Indeed, the counties in the tristate area within the Memphis metropolitan area have some of the highest personal bankruptcy rates in the nation. We view their close proximity to the Tunica casinos as very meaningful.

Shelby County, TN, where Memphis is situated, easily had the highest county bankruptcy rate in the nation in 1996, at 17.28 per 1,000 population—more than four times the national average. It's also by far the biggest county in terms of population among the most bankrupt counties. Memphis also happens to be the headquarters of Harrah's, one of the biggest casino operators.

Also on the list of worst counties are two Mississippi counties. DeSoto, with a December 1996 filing rate of 10.65, borders Tunica County. Marshall County, at 11.47, is adjacent to DeSoto. Tunica County itself, the

likely source of some of this trouble, has a population of just 8,132 souls, and a bankruptcy rate of just 5.78, less than the state average of 6.16.

Also high on the list of most bankrupt counties is Crittenden County, AR, at 11.16. It's the county located just across the Mississippi River from Shelby County. Tipton County, TN, at 10.96, is adjacent to Shelby County on the north. Madison County, TN, at 10.73, is located just east of Shelby. But other counties located near Shelby in Tennessee sport high bankruptcy rates, including Haywood, Lauderdale, Fayette, and Crockett, to name a few. These counties don't appear on our list of worst counties because their populations were less than 25,000.

The Tunica casinos aren't the only ones catering to Tennessee residents. There's also a casino located upriver in Caruthersville, MO, in the state's southeastern panhandle. It may be part of the reason for the 10.56/1,000 bankruptcy rate in Dyer County, TN, which is located just across the river. Also, Gibson County, TN, just east of Dyer, has a bankruptcy filing rate of 10.12. It's worth mentioning that both Dyer and Gibson Counties are also both within a two-hour drive of the Tunica casinos.

The next table shows that 9 of the 24 U.S. counties with the highest bankruptcy rates in 1996 also were places located very close to three gambling sites.

COUNTIES WITH HIGHEST BANKRUPTCY FILING RATES, 1996

[Minimum population 25,000]

County name	Code	Population	Filings	Filings per 1000
Shelby County, TN	1	865,058	14,952	17.28
Coffee County, GA		32,697	432	13.21
Jefferson County, AL		657,827	8,124	12.35
Bibb County, GA		135,066	1,912	12.33
Troup County, GA		57,882	705	12.18
Walker County, GA		60,654	705	11.62
Marshall County, MS	1	32,078	368	11.47
Crittenden County, AR	1	49,889	557	11.16
Clayton County, GA		198,551	2,209	11.13
Liberty County, GA		58,749	650	11.06
Coweta County, GA		72,021	789	10.96
Tipton County, TN	1	43,423	476	10.96
Murray County, GA		30,032	325	10.82
Madison County, TN	1	83,715	898	10.73
Baldwin County, GA		41,854	448	10.70
DeSoto County, MS	1	83,567	890	10.65
Dyer County, TN	2	35,900	379	10.56
Manassas city, VA		32,657	333	10.20
Gibson County, TN	2	47,728	483	10.12
Scott County, MS	3	25,042	253	10.10
Rhea County, TN		26,833	271	10.10
Talladega County, AL		76,737	774	10.09
Spalding County, GA		57,306	575	10.03
Ware County, GA		35,589	357	10.03

Key to Codes: [1] Located near casinos in Tunica County, MS; [2] Located near casino in Caruthersville, MO; and [3] Located near casino in Philadelphia, MS.

MORE EXAMPLES

Of course, scenarios like this can be seen in other areas of the country. Atlantic County, NJ, is a leading example. It is home to all of that state's legalized gambling casinos, and the 1996 bankruptcy rate was 7.10 filings per 1,000 residents. That was 71% higher than the state average bankruptcy rate of 4.16. And most of the time, counties located closest to Atlantic had higher bankruptcy rates than others further away.

Of course, Atlantic City draws customers from all kinds of places, including many from New York City. Our point is that the resident population in a gambling county has the easiest and most frequent opportunity to use the facilities, therefore we should expect to see some result in the per capita bankruptcy rate.

Similarly, the 1996 bankruptcy rate in Nevada is more than 50% higher than the national average. In Clark County, where Las Vegas is located and where more than half of the state's more than 300 casinos are based, we see the highest bankruptcy rate within the state. Nor is it surprising that the two counties with the highest bankruptcy rates in California are those just across the border from Las Vegas, San Bernardino (7.04) and Riverside (6.77). Those two counties also now have tribal casinos of their own.

Moving to Maryland, Prince Georges County has by far the highest bankruptcy rate among counties in that state—6.72 filings per 1,000 population in 1996, almost 50% higher than the state average of 4.57. By way of comparison, the next highest county bankruptcy rate in Maryland is 5.27, a significantly lower figure. What's going on in Prince Georges?

The answer is that Prince Georges is the only county in Maryland where casino gambling is legal. Legal casinos are located at charitable organizations, such as Elks and Knights of Columbus halls and volunteer fire departments. These casinos have strict limits on operating hours and betting and don't have the glitz of Las Vegas or Atlantic City, yet they do now exist and the casinos are used. Prince Georges County also has harness racing.

GAMBLING & LOW-BANKRUPTCY STATES: WOULD THEY BE EVEN BETTER WITHOUT IT?

All of the prior information is highly suggestive that gambling influences bankruptcy. Yet, as all the rest of this study shows, there are many other bankruptcy drivers. Therefore, the correlation between bankruptcy and the physical location of gambling facilities is certainly imperfect.

There are some states, for instance, where there are gambling facilities, yet the bankruptcy rates are reasonably low. These states include South Dakota, Minnesota, and Iowa—all located in the moderate bankruptcy ''corridor'' of the upper Midwest.

It's hard to tell in these areas whether gambling has no effect on bankruptcy, or if, on the other hand, bankruptcy would be even less of a problem without the casinos. The Minnesota university study referenced earlier in this section suggests that bankruptcies in that state are caused at times by gambling.

Indeed, the notion that gambling is a major negative for bankruptcy in all geographies is supported by information from our interviews and from a lot of local newspaper articles we have reviewed. The actual gambling debts may have become credit card debts prior to the filer entering bankruptcy court, but that doesn't change the cause of the financial trouble. The following material will add more from this review of experts and news articles.

QUANTIFYING THE PROBLEM: 10 PERCENT OF FILINGS MIGHT BE LINKED TO GAMBLING; 20 PERCENT OF PROBLEM GAMBLERS GO BANKRUPT

Articles we studied, often quoting attorneys who specialize in personal bankruptcy, suggested that about 10% of bankruptcy filings are linked to gambling losses. That figure could be higher depending on location. Most of the debt is racked up on credit cards.

According to the experts on compulsive gambling with whom we talked, no comprehensive national study on problem gambling has been conducted in the U.S. since the early 1970s. However, several state studies have been done, all concluding that 20% or more of compulsive gamblers were forced to file for bankruptcy protection because of the losses they had incurred.

In the April 1996 study of compulsive gamblers in Minnesota conducted by two professors at the University of Minnesota Medical School, the researchers reported that 21% of the people in the study had filed for bankruptcy. In addition, a disturbing 94% said they had at least one gambling-related financial problem in their lifetime. Furthermore, 9 out of 10 of the subjects said they had borrowed from banks, credit cards, and loan companies to finance their gambling. And, 77% said they had written bad checks to finance gambling sprees.

The University of Illinois in Normal conducted two surveys of members of Gamblers Anonymous in 1993 and 1995. The combined results found that 21% had filed for bankruptcy, and that another 17% had been sued for gambling-related debts. Additionally, 16% said their gambling led to divorce—another big driver of bankruptcy filings—and another 10% said it led to separation. Compulsive gamblers also have very high rates of attempted suicides, higher even than for drug addicts, the experts said.

Rachel Volberg, the Pennsylvania-based compulsive gambling consultant we referenced earlier, told us that a study in Wisconsin had found that 23% of compulsive gamblers had filed for bankruptcy, and that 35% of the gamblers said they had used credit cards for gambling money. She also said a study conducted in the Canadian province of Quebec found that 28% of problem gamblers there had sought bankruptcy protection.

One of the really scary things about these studies is that they are conducted only with people who had sought out professional help for gambling addiction. So, there may be other problem gamblers at risk, too.

According to several lawyers specializing in bankruptcy who were quoted in newspaper articles that we studied, 10% to 20% of their clients did so due to gambling debts they couldn't pay. These lawyers were located in

areas near casinos, so the 10% to 20% figures probably doesn't hold for the U.S. population at large. Nevertheless, its probably not a stretch to say that at least in those areas near major casinos, gambling-related bankruptcies account for a good 10% to 20% of the filings.

THE EXPLOSION IN IOWA

It's also not a stretch to say that the number of people with financial problems stemming from gambling is on the rise, tracking the spread of legalized gambling.

Tom Coates, executive director of the nonprofit Consumer Credit Counseling Service of Des Moines, IA, told us that 10% to 15% of the people his agency counsels have financial problems ''directly related to gambling.'' That's up dramatically from 2–3% when the agency opened its doors 10 years ago, before casino gambling was legalized in Iowa. Coates also told us that his service's business is up 30–40% over a year ago, at a time when Iowa's unemployment rate is at an all-time low and its economy stronger than the nation's at large. He blames gambling for much of the surge.

Probably, much of what we've reported about problem gamblers will not surprise the experienced credit executive. People with gambling addiction are rather obviously at risk to lose a lot of money. But how many such people exist? And how many gamble occasionally? Let's take a look at the numbers, below.

2.6 MILLION ADULTS MAY HAVE A GAMBLING PROBLEM

According to the most recent statistics released by the American Gaming Association, the casino industry's trade group, U.S. households made 154 million visits to casinos in 1995. That number was up 23% from the previous year and up an astounding 235% from 1990.

The AGA said 31% of U.S. households gambled at a casino in 1995, up from just 17% in 1990. ''Gaming households,'' as the AGA calls them, also made an average 4.5 trips to casinos in 1995, up from 3.9 times the year before and 2.7 in 1990.

Of course, it is difficult to pinpoint how many of these people have a problem or compulsion—terms that can be a matter of degree or interpretation. Most estimates range from 1% of the adult population to as high as 7%.

The University of Minnesota study estimated that 1% of the state's entire population were ''problem pathological gamblers,'' meaning that they lose control and continue gambling in spite of adverse consequences. If this 1% figure were true for the entire U.S. population, it would represent about 2.7 million people at risk.

The gaming industry itself says that 2% to 4% of practicing gamblers develop compulsion problems. Since 31% of households gambled at a casino in 1995, the 2% to 4% range would yield numbers very similar to the Minnesota study. (31% of 265 million people = 82.15 million 3% = 2.5 million compulsive gamblers.)

Needless to say, people don't become compulsive gamblers until they're first exposed to gambling. Therefore, the rapid spread of casino gambling right now is a major concern.

Coates, the credit consultant, told us that Iowa commissioned a study of problem gambling in 1989, two years before the state's first riverboat and Indian casinos opened. In that study, it was estimated that 1.7% of the state's adult population were compulsive gamblers.

In 1995, by which time many casinos had dotted the state, Iowa did a similar study. Using the same methodology, the second study found that 5.4% of the state's entire adult population—not just the population that gambles—were problem or compulsive gamblers, a more than tripling of the rate in just six years.

LOSING EVERYTHING IS COMMON

For creditors, another problem with gambling-driven bankruptcy is that it is highly likely to result in total loss.

Even though most bankruptcy filings will represent near-total loss of amounts owed to unsecured creditors, the gambling-driven bankruptcies may be the worst. That's because addicted gamblers tend to ''tap out'' completely on debt and deplete savings, leading them into Chapter 7 liquidation.

These are logical observations, but also are supported by findings in a July 1996 study conducted in Wisconsin. We reviewed this study.

DEALING WITH THE GAMBLING ISSUES

Like so many of the drivers of bankruptcy, gambling is a frustratingly tough problem to solve.

Casino gambling is spreading rapidly in part because so many people enjoy it. Most gamblers also are responsible and know their limits. People like gambling and most do it safely, so how do you argue against the further spread of casinos?

The central problem for bankruptcy is that gambling adds another socio-economic minority group to the high-risk mix.

Bankruptcy is always driven by socio-economic and demographic minority groups. Most people have health insurance, but the 40 million Americans who don't are a large high-credit-risk minority. Most people don't get divorced, but the 10% of adults who are divorced are a sizable at-risk minority. If there also are 2.6 million compulsive gamblers, this is just another high-risk group to throw in—and perhaps the most rapidly growing group. Bankruptcies are rising in part because, when you add up all these at-risk minority groups, you end up with a very large number that's no longer minor.

Still, we believe that much could be done by active creditors to combat the level of the risk. At the moment, if anything, creditors enable and even encourage the problem gambler to go too far. And some state governments seem even more eager than the casinos themselves to encourage irresponsible gambling behavior—as we'll see in a moment in New Jersey.

Here are some of out thoughts on combating the gambling/bankruptcy problem:

1. Make it tougher for customers to obtain cash advances at gambling casinos.

According to the gaming industry itself, more than half of the money that gamblers play with at casinos is not money they brought with them. It is money they obtained inside the casino or close by from automated teller machines, cash advances from credit terminals, and the like.

''It is no secret in the casino industry that patrons will continue to play a game until their cash runs out. What some operators have discovered, however, is if a consumer is provided with efficient and easy ways to access cash, often a 'last time' player will wager for longer than he or she originally planned,'' states a recent article about cash advances in International Gambling and Wagering Business, a gaming industry monthly magazine. In addition, the article says, ''credit customers tend to be more liberal money-users.''

Credit card issuers have been very accommodating to gamblers, making it easy for them to get their hands on large sums of money very quickly. And it may well be that most of this business is profitable for the card issuers. But that may be changing now. In an era of very rapidly increasing bankruptcies, it does not take long for the net losses from bankruptcy filers to exceed the profits from gamblers who responsibly use their cash advances.

Here is some admittedly over-simplified card issuer math: Let's hypothesize that 1,000 gamblers have used credit card cash advances to obtain $1,000 each. Total receivables for this group will be $1 million. At a 1.5% return on assets, this $1 million will generate $15,000 of net income.

But the gaming industry itself says that 2% to 4% of these gamblers have an addiction problem. If the average is 3%, then 3% of the 1,000 gamblers we've just looked at are very high risk. This will be 30 people. If, as the earlier data suggests, 20% of these 30 people will file for bankruptcy, then 6 of the original 1,000 gamblers will wind up in bankruptcy court. Against the $15,000 of net income, what will the loss be from the 6 bankrupt compulsive gamblers? Probably, it will be more than $15,000—or at least close enough to make this little piece of the credit card business insufficiently profitable.

This tells us that card issuers and the ATM associations they partially control may want to reconsider their placement of so many cash machines in casino hotels. Or, at least, card issuers may need to institute new early warning indicators specific to those locations. The heavy users of casino hotel cash machines should be the ones stopped sooner.

''If I were a credit guy, I would check better on the ATM transactions,'' said Edward Looney, executive director of the Council on Compulsive Gambling of New Jersey. ''Banks ought to immediately pick up on someone in trouble. You can tell just from the transactions.'' Coates was quoted in the Des Monies Register newspaper in late 1995 claiming that banking sources told him that eight of the 10 busiest ATMs in Iowa were located at the casinos.

2. Help defeat actions in states that would make it easier for gamblers to get credit card cash advances on casino floors.

Here is perhaps the craziest credit risk story yet.

In New Jersey last September, the state Casino Control Commission passed a regulation that would allow casino patrons to utilize ATM and credit card cash advance machines placed right at the Atlantic City gaming tables.

Previously, customers had to walk to a different part of the building to use these machines. Under the new proposal, borrowing for blackjack would be faster than ordering a drink from a cocktail waitress. Not even Las Vegas casinos allow this. And, the Atlantic City casinos themselves don't support the measure, which they believe would lead to increased gambling compulsion and would tarnish the industry's reputation.

In other words, the state government is more eager to push money into the gambler's hands than the casinos who would profit most in the short run. What's wrong with the New Jersey regulators—and why didn't the banking industry object?

So far, no Atlantic City casino has taken advantage of the rule change, nor is any likely to in the future, said Keith Whyte, director of research at the American Gaming Association, the industry's trade group.

''We definitely opposed in principle New Jersey's regulatory rule change that would let casinos put ATM card swipes right at the table. And in fact no casinos are doing that, and none will, I can almost guarantee you.'' Whyte told us. ''It wasn't a casino-initiated thing. Everybody [in the industry] realized that is probably not a step we would want to take.''

According to Looney, the New Jersey Compulsive Gambling Council chief, not a single credit card or banking industry representative raised any objection to this rule when it

was being debated. Yet, Atlantic City has the highest concentration of big casinos outside Las Vegas and serves millions of gamblers per year. You get the feeling no one in the credit community is paying close attention to gambling's effect on bankruptcy.

3. Maybe cash machines should be move out of the casino hotels entirely.

Many of the experts we talked to for this study agreed that the worst thing for a compulsive gambler to have is immediate access to cash when he's on a binge. To the extent that banks control or influence where cash machines are placed, it may be time to reconsider their currently wide availability around the casino hotels.

If the gambler had to walk down the street to get cash, no doubt some would. But some of the people we interviewed strongly contend that the walk itself would impose a ''cooling off' period that would stop some compulsive gambling losses.

''It's a vulnerable thing for a compulsive gambler to get credit,'' said Looney of the New Jersey council and himself a recovering gambling addict. ''They will be so focused on their gambling that they will gamble everything they can, including all the credit cards they have in their possession. It is important to have ATM and credit card terminal at least some distance form where gambling actually takes place. To some this might seem a small point, but to those of us who deal with compulsive gamblers, this is huge. For many compulsive gamblers, just being forced to walk a couple of hundred feet away from where the gambling is actually taking place is sufficient time for them to rethink whether they really want to gamble any further. That break from gambling is a crucial time for many.''

4. Challenge more aggressively those bankruptcy filings where it appears that gambling losses are the main reason why the person is filing.

Inside the bankruptcy court, at least some folks contend, creditors should be even tougher on gamblers than they already are.

''I think lenders should push for slightly different treatment [in bankruptcy court] for someone who has been shown to run up his debts for gambling,'' said Tom Coates, the Des Moines credit counselor. Credit card lenders would not only be helping themselves but doing the problem gambler a favor, too, he noted.

Coates, who recently testified before the National Bankruptcy Commission, tried to impress on the panel that discharging gambling debts through a bankruptcy filing doesn't do the gambler any good. ''I tried to impress on the Commission that the compulsive, problem gambler is living in a fantasy world and to go ahead and discharge this debt in bankruptcy court continues to propagate this atmosphere of fantasy land. It will abort the recovery process for that individual. The process of recovery is to bring that person our of their fantasy world into the world of reality, and by discharging those debts, none of it seems real to them.''

Indeed, in a recent article in the St. Louis Post-Dispatch about gambling and bankruptcy, one gambler was quoted counseling another with money troubles: ''Go file bankruptcy. Then you'll have money to gamble with.''

U.S. credit card issuers should consider lobbying to change U.S. bankruptcy laws to make it illegal for people to discharge gambling debts in bankruptcy court. That is the current law in Australia, according to Henry Lesieur, the University of Illinois professor. Of course, the care issuers would have to be able to prove that a card cash advance was used for gambling purposes, which might often be difficult. On the other hand, if the law were changed, perhaps filers who lie about gambling losses would risk penalties, so at least some might be honest.

5. Finance research into problem gambling and finance help for compulsive gamblers.

From time to time, creditors provide funds to all sorts of charitable outfits. If they helped finance research into compulsive gambling, such spending would play a dual role. It would be a public contribution, and it would help creditors learn more about the seriousness of the tie between gambling and bankruptcy.

Quite a bit of money is spent on alcohol and drug addiction research and rehabilitation. Both of those problems are viewed (at least by some people) as medical. Apparently, the public view toward gambling addiction is quite different. There's no drug involved, and little is spent on research or rehab. Yet, gambling addiction can indeed be viewed as a form of emotional or mental illness—and it's the one addiction that is growing most quickly in its impact on creditors.

In our research for this study, we found very little new research being conducted on compulsive gambling. The experts we interviewed said that no national survey of compulsive gamblers has been done in more than 20 years; only a handful of studies have been done by various states from time to time. Much of the available research has been done in academia with modest financial support, and it gets little followup attention.

Card issuers spend millions on sporting events, the Olympics, and even on the Smithsonian museums (Discover Card). These expenditures have a marketing value. A fractional amount diverted to gambling research could have an even better bottom line impact.

Ms. KILPATRICK. Mr. Chairman, I rise today in strong opposition to H.R. 3150, the Bankruptcy Reform Act of 1998. This legislation does nothing to address the aggressive marketing of credit cards, home equity loans, and other forms of credit to consumers. While we all support individual responsibility, this bill makes it even tougher for persons to eradicate their debts and get started on a new financial slate.

First of all, I must inform my colleagues that, many, many years ago, I had to file for bankruptcy. For me, the debate on the floor today is no hypothetical, nor theoretical, exercise. Fortunately, I was able to repay my creditors and get back into excellent fiscal standing. But having to go through the wringer of bankruptcy has helped me better form an opinion on how we can better serve both debtors and creditors. H.R. 3150 is not that bill. Among other things, H.R. 3150 includes a means-test to determine whether a family can file for bankruptcy protection that eliminates debts and gives families a fresh, new financial start, commonly referred to as ''Chapter Seven,'' or whether the family must enter into a stringent repayment plan, referred to as ''Chapter 13.'' Most of our constituents who have to file for bankruptcy will have this fact listed on their credit report for at least seven years. Although a family may have their debts eliminated, for the next seven years it is difficult, if not impossible, to rent a car, rent a house or apartment, buy a business, or sometimes get a job. Having a bankruptcy filing listed on your credit report is tough to remove and tough to live with.

During House Rules Committee consideration of this bill, I offered an amendment that was not made part of this debate. My amendment would have allowed consumers to keep those electronic entertainment items that were purchased three months before the filing of a bankruptcy, and has a value of $500.00 or less. Certainly, a person knows at least three months in advance of a bankruptcy filing that he or she is in severe financial straits. My amendment would have also allowed for the disposition to creditors of recently-purchased electronic entertainment goods that have a higher value. While my amendment did not recognize fax machines or personal computers into this equation, we certainly know the volatility of the prices of these electronic goods. A computer that was purchased a year ago for $3,000 is now worth less that half that. Along those same lines, computers purchased years ago are now worth less than $1,000, and in many instances, you cannot even give them away. My amendment sets a limit of $500 to be consistent with the rest of current bankruptcy law. Unfortunately, it was not accepted by the House Rules Committee.

Bankruptcy is a very personal, dehumanizing, and emotionally draining experience. Despite the great strides that our economy, in general, has made with record unemployment and a stock market soaring into the stratosphere, bankruptcies are hitting all-time highs. It is important that we protect consumers and creditors. Unfortunately, the Bankruptcy Reform Act of 1998 does not protect consumers or creditors, and the wisdom of Congress should prevail in the defeat of this onerous bill.

Mr. POMEROY. Mr. Chairman, my vote today on behalf of H.R. 3150 is a vote to advance the process of bankruptcy reform in this Congress. I strongly believe that there is a need to reform our nation's bankruptcy laws. Passage of H.R. 3150 will allow bankruptcy reform efforts to proceed in the Senate and will move us toward our ultimate goal of sensible, responsible bankruptcy reform. I am disappointed that my vote does not also represent wholehearted support for the bill before us, but I believe that a number of the provisions of H.R. 3150 are flawed and must be revisited as the process continues. If these flaws are not remedied in our negotiations with the Senate, I will be unable to support a final conference agreement.

My primary concern with H.R. 3150 is that it would endanger the payment of child support and alimony by those who have declared bankruptcy. While the bill does not directly reduce the priority of child support obligations, it does increase the rights of other creditors such as credit card lenders, setting up a competition for scarce resources between mothers and children owed support and commercial credit card companies. Under Chapter 7 proceedings, mothers and children entitled to alimony and child support will have to compete with new categories of nondischargeable debt. Under Chapter 13 proceedings, these individuals will have to compete with the required $50 monthly payment to non-priority unsecured creditors such as credit card companies. I fear that mothers and children will lose out in these contests.

Mr. Chairman, H.R. 3150 appropriately steps up the degree of personal responsibility that must be expected from those who engage in reckless spending and who seek to misuse the bankruptcy laws to escape the consequences of this conduct. I am concerned, however, that this legislation does not at the same time step up the degree of responsibility that must be expected from the credit card companies who today often facilitate this spending through aggressive marketing of

their cards. While we must ask individuals to be prudent with respect to their credit and spending behavior, we must also ask credit card companies to be prudent with respect to their lending behavior. These companies possess credit histories for those to whom they market and they should simply not be extending credit to individuals who they know to be financially overextended. I believe we must encourage credit card companies to exercise responsibility by making dischargeable credit card debt extended under these circumstances.

Mr. Chairman, it is my sincere hope that these issues will be remedied in the Senate and during any conference committee so that this Congress can truly achieve the goal of sensible, responsible bankruptcy reform.

Ms. CHRISTIAN-GREEN. Mr. Chairman, I rise today in opposition to H.R. 3150, the Bankruptcy Reform Act of 1998 because it supports creditors at the expense of the interest of women and children.

My colleagues, the Leadership Conference on Civil Rights in commenting on this bill points out, I think quite correctly, that it is economic discrimination which is suffered by disadvantaged groups in our society that often is the reason why such groups are forced to file bankruptcy.

In the case of women, for example, the cumulative effects of lower wages, reduced access to health insurance, the devastating economic consequences of divorce and the disproportionate financial strain of rearing children alone is often why women heads of households find themselves in bankruptcy.

Additionally, African-Americans and Hispanic families also suffering from discrimination in home mortgage lending and housing purchases and facing inequity in hiring opportunities, wages, and health insurance coverage, also turn to bankruptcy to stabilize their economic circumstances and protect the middle class lives they have struggled so hard to achieve.

Mr. Speaker, H.R. 3150 should be opposed because it would have a significant negative impact on these groups of economically disadvantaged Americans, all to the benefit of the credit industry. It is ironic that as the credit industry waged a high-profile campaign to rush this bill, which would punish debtors, to the floor of the House, total credit card profitability has grown. According to the Federal Reserve Board, credit card lending is now twice as profitable as all other lending activities.

H.R. 3150 should also be opposed, Mr. Speaker, because it places in jeopardy the ability of women and children who file for bankruptcy to receive child support and alimony payments. This will be devastating to children and women who rely on child care and alimony.

As a new member of the Small Business Committee I am particularly troubled that the Bankruptcy Reform Act of 1998 would also make it difficult for small businesses who are experiencing financial difficulties to get a fresh start. The small business provisions of the bill will impose massive new legal and paperwork burdens on small business and real estate concerns thereby increasing the potential for job loss.

Mr. Speaker, this isn't reform its deform. I urge my colleagues to join the Clinton Administration, the AFL-CIO, the National Bankruptcy Conference, the Leadership Conference on Civil Rights and countless other organizations in opposition to this bill.

Mr. BARCIA. Mr. Chairman, H.R. 3150, the Bankruptcy Reform Act of 1998, is not a perfect bill and I have reservations about the specific language. However, I am voting for the legislation because I strongly believe that people must take responsibility for their financial decisions.

Last year more than 1.33 million households filed for bankruptcy which amounted to over $44 billion. And when these consumers file for bankruptcy, the rest of us pay for it. We pay in the form of higher interest rates. We pay in the form higher credit card fees. We pay through a growing number of penalty charges for late payment even when the ''late payment'' is more the fault of the postal service than that of the consumer. I share my colleagues concerns about giving families a new beginning if they incurred debt beyond their control, such as high medical costs from an accident or recovery from a disaster. But when the reason for financial difficulty is a lack of personal financial responsibility and bankruptcy is viewed as an ''easy way out'' then the system has failed.

Our nation's bankruptcy laws play an important and necessary role in our society. We must ensure that our bankruptcy system does not unintentionally encourage those who can take responsibility for their financial obligations not to do so. Such an abuse of our bankruptcy laws is fundamentally unfair to those who play by the rules and take responsibility for their personal obligations.

As I said, this is not a perfect bill. As this bill progresses through the legislative process I will do all that I can to protect the innocent people from being caught up in the system and ensure that others are not taking advantage of an easy way out.

Mr. FILNER. Mr. Chairman, rather than reining in their own policies of ''easy credit,'' big banks and credit card companies want to come down on families who took their bait, and in many instances, began to rely on credit cards to pay for basic living expenses. This legislation before us would even allow credit card companies to make tragic victims of those who did not even rack up credit card debt—women and children who depend on alimony and child support payments to live.

There are many problems with this bill. The first is a rigid and arbitrary means test that would bounce many families into Chapter 13 without allowing judges to rule on the specifics of their cases, exposing their families to the potential of losing their family homes. Just as inhumane are the provisions that would make credit card debt non-dischargeable. This would place credit card debt on the same plane as child support and alimony payments and force women to fight credit card companies to maintain their right to receive payments for their families' sustenance.

H.R. 3150 would absolve credit card companies of problems largely of their own making. It would turn the bankruptcy system into a debt collection agency for credit companies—with taxpayers footing the bill! Our families, particularly women and children, deserve the right to fair bankruptcy laws, laws interpreted on a case by case basis by judges who *currently* have the power to ensure that children's needs are met first while the other debts are being repaid.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule by title, and each title shall be considered as read.

No amendment to the committee amendment is in order unless printed in the House Report 105–573. Each amendment may be offered only in the order specified, may be offered only by a Member designated in the report, shall be considered as read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

The chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment, and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Mr. GEKAS. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Bankruptcy Reform Act of 1998''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs-Based Bankruptcy

SEC. 101. NEEDS-BASED BANKRUPTCY.

Title 11, United States Code, is amended—

(1) in section 101 as follows:

(A) by inserting after paragraph (10) the following:

''(10A) 'current monthly total income' means the average monthly income from all sources derived which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether it is taxable income, in the six months preceding the date of determination, and includes any amount paid by anyone other than the debtor or, in a joint case, the debtor and the debtor's spouse on a regular basis to the household expenses of the debtor or the debtor's dependents and, in a joint case, the debtor's spouse if not otherwise a dependent;''; and

(B) by inserting after paragraph (40) the following:

''(40A) 'national median family income' and 'national median household income for 1 earner' shall mean during any calendar year, the national median family income and the national median household income for 1 earner which the Bureau of the Census has reported as of January 1 of such calendar year for the most recent previous calendar year;'';

(2) in section 104(b)(1) by striking ''109(e)'' and inserting ''subsections (b), (e), and (h) of section 109'';

(3) in section 109(b)—

(A) in paragraph (2) by striking ''or'' at the end;

(B) in paragraph (3) by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(4) an individual or, in a joint case, an individual and such individual's spouse, who have income available to pay creditors as determined under subsection (h).'';

(4) by adding at the end of section 109 the following:

''(h)(1) An individual or, in a joint case, an individual and such individual's spouse, have income available to pay creditors if the individual, or, in a joint case, the individual and the individual's spouse combined, as of the date of the order for relief, have—

''(A) current monthly total income of not less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, of not less than the national median household income for 1 earner, as of the date of the order for relief;

''(B) projected monthly net income greater than $50; and

''(C) projected monthly net income sufficient to repay twenty percent or more of unsecured nonpriority claims during a five-year repayment plan.

''(2) Projected monthly net income shall be sufficient under paragraph (1)(C) if, when multiplied by 60 months, it equals or exceeds 20 percent of the total amount scheduled as payable to unsecured nonpriority creditors.

''(3) 'Projected monthly net income' means current monthly total income less—

''(A) the expense allowances under the applicable National Standards, Local Standards and Other Necessary Expenses allowance (excluding payments for debts) for the debtor, the debtor's dependents, and, in a joint case, the debtor's spouse if not otherwise a dependent, in the area in which the debtor resides as determined under the Internal Revenue Service financial analysis for expenses in effect as of the date of the order for relief;

''(B) the average monthly payment on account of secured creditors, which shall be calculated as the total of all amounts scheduled as contractually payable to secured creditors in each month of the 60 months following the date of the petition by the debtor, or, in a joint case, by the debtor and the debtor's spouse combined, and dividing that total by 60 months; and

''(C) the average monthly payment on account of priority creditors, which shall be calculated as the total amount of debts entitled to priority, reasonably estimated by the debtor as of the date of the petition, and dividing that total by 60 months.

''(4) In the event that the debtor establishes extraordinary circumstances that require allowance for additional expenses or adjustment of current monthly income, projected monthly net income for purposes of this section shall be the amount calculated under paragraph (3) less such additional expenses or income adjustment as such extraordinary circumstances require.

''(A) This paragraph shall not apply unless the debtor files with the petition—

''(i) a written statement that this paragraph applies in determining the debtor's eligibility for relief under chapter 7 of this title;

''(ii) if adjustment of current monthly income is claimed, an explanation of what income has been lost in the 6 months preceding the date of determination and any replacement income that has been offered or secured, or is expected, and an itemization of such lost and replacement income;

''(iii) if allowance for additional expenses is claimed, a list itemizing each additional expense which exceeds the expenses allowances provided under paragraph (3)(A);

''(iv) a detailed description of the extraordinary circumstances that explain why each loss of income described under clause (ii) will not be replaced or each additional expense itemized under clause (iii) requires allowance; and

''(v) a sworn statement signed by the debtor and, if the debtor is represented by counsel, by the debtor's attorney, that the information required under this paragraph is true and correct.

''(B) Until the trustee or any party in interest objects to the debtor's statement that this paragraph applies and the court rejects or modifies the debtor's statement, the projected monthly net income in the debtor's statement shall be the projected monthly net income for the purposes of this section. If an objection is filed with the court within 60 days after the debtor has provided all the information required under subsections (a)(1) and (c)(1)(A) of section 521, the court, after notice and hearing, shall determine whether such extraordinary circumstances exist and shall establish the amount of the additional expense allowance, if any. The burden of proving such extraordinary circumstances shall be on the debtor.'';

(5) in section 704—

(A) by striking ''and'' at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(C) by adding at the end the following:

''(10) with respect to an individual debtor, review all materials provided by the debtor under subsections (a)(1) and (c)(1) of section 521, investigate and verify the debtor's projected monthly net income and within 30 days after such materials are so provided—

''(A) file a report with the court as to whether the debtor qualifies for relief under this chapter under section 109(b)(4); and

''(B) if the trustee determines that the debtor does not qualify for such relief, the trustee shall provide a copy of such report to the parties in interest.'';

(6) in section 1302(b)—

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

(B) in paragraph (5) by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(6) investigate and verify the debtor's monthly net income and other information provided by the debtor pursuant to sections 521 and 1322, and pursuant to section 111, if applicable; and

''(7) file annual reports with the court, with copies to holders of claims under the plan, as to whether a modification of the amount paid creditors under the plan is appropriate because of changes in the debtor's monthly net income.''.

SEC. 102. ADEQUATE INCOME SHALL BE COMMITTED TO A PLAN THAT PAYS UNSECURED CREDITORS.

Title 11, United States Code, is amended—

(1) in section 101 by inserting after paragraph (39) the following:

''(39A) 'monthly net income' means the amount determined by taking the current monthly total income of the debtor less—

''(A) the expense allowances under the applicable National Standards, Local Standards and Other Necessary Expenses allowance (excluding payments for debts) for the debtor, the debtor's dependents, and, in a joint case, the debtor's spouse if not otherwise a dependent, in the area in which the debtor resides as determined under the Internal Revenue Service financial analysis for expenses in effect as of the date it is being determined;

''(B) the average monthly payment on account of secured creditors, which shall be calculated as of the date of determination as the total of all amounts then remaining to be paid on account of secured claims pursuant to the plan less any of such amounts to be paid from sources other than the debtor's income, divided by the total months remaining of the plan; and

''(C) the average monthly payment on account of priority creditors, which shall be calculated as the total of all amounts then remaining to be paid on account of priority claims pursuant to the plan less any of such amounts to be paid from sources other than the debtor's income, divided by the total months remaining of the plan;'';

(2) in section 104(b)(1) by striking ''and 523(a)(2)(C)'' and inserting ''523(a)(2)(C), and 1325(b)(1)'';

(3) by adding after section 110 the following:

''§111. Adjustment to monthly net income

''(a) Monthly net income for purposes of a plan under chapter 13 of this title shall be adjusted under this section when the debtor's extraordinary circumstances require adjustment as determined herein. Under this section, monthly net income shall be determined by subtracting therefrom such loss of income or additional expenses as the debtor's extraordinary circumstances require as determined under this section. This section shall not apply unless—

''(1) the debtor files with the court and, in a case in which a trustee has been appointed, with the trustee at the times required in subsection (b) a statement of extraordinary circumstances as follows—

''(A) a written statement that this section applies in determining the debtor's monthly net income;

''(B) if applicable, an explanation of what income has been lost in the six months preceding the date of determination and any replacement income which has been secured or is expected, and an itemization of such lost and replacement income;

''(C) if applicable, a list itemizing each additional expense which exceeds the expense allowance provided in determining monthly net income under section 101(39A);

''(D) if applicable, a detailed description of the extraordinary circumstances which explains why each of the additional expenses itemized under paragraph (C) requires allowance; and

''(E) a sworn statement signed by the debtor and, if the debtor is represented by counsel, by the debtor's attorney, of the amount of monthly net income that the debtor has pursuant to this subsection and that the information provided under this subsection is true and correct; and

''(2) until the trustee or any party in interest objects to the debtor's request that this section be applied and the court rejects or modifies the debtor's statement, the monthly net income in the debtor's statement shall be the monthly net income for the purposes of the debtor's plan. If an objection is filed with the court within the times provided in subsection (b), the court, after notice and hearing, shall determine whether such extraordinary circumstances asserted by the debtor exist and establish the amount of the loss of income and such additional expense allowance, if any. The burden of proving such extraordinary circumstances and the amount of the loss of income and the additional expense allowance, if any, shall be on the debtor. The court may award to the party that prevails with respect to such objection a reasonable attorney's fee and costs incurred by the prevailing party in connection with such objection if the court finds that the position of the nonprevailing party was not substantially justified, but the court shall not award such fee or such costs if special circumstances make the award unjust.

''(b) For the purposes of chapter 13 of this title, the statement of extraordinary circumstances shall be filed with the court and served on the trustee on or before 45 days before each anniversary of the confirmation of the plan in order to be applicable during the next year of the plan. Any objection thereto shall be filed 30 days after the statement is filed with the trustee. Whenever a statement is timely filed with the trustee, the trustee shall give notice to creditors that such statement has been filed and the amount of monthly net income stated therein within 15 days of receipt of the statement.'';

(4) in section 1322(a)—

(A) by striking ''and'' at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(C) by adding at the end the following:

''(4) state, under penalties of perjury, the amount of monthly net income, which may be as adjusted under section 111, if applicable, of this title and the amount of monthly net income which will be paid per month to unsecured nonpriority creditors under the plan.''; and

(5) by amending section 1325(b)(1)(B) to read as follows:

''(B) the plan provides—

''(i) that payments to unsecured nonpriority creditors who are not insiders shall equal or exceed $50 in each month of the plan;

''(ii) that during the applicable commitment period beginning on the date that the first payment is due under the plan, the total amount of monthly net income received by the debtor shall be paid to unsecured nonpriority creditors under the plan less only payments pursuant to section 1326(b); the 'applicable commitment period' shall be not less than 5 years if the debtor's total current monthly income is not less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, is not less than the national median household income for 1 earner, as of the date of confirmation of the plan and shall be not less than 3 years if the debtor's total current monthly income is less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, is less than the national median household income for 1 earner, as of the date of confirmation of the plan;

''(iii) that the amount payable to each class of unsecured nonpriority claims under the plan

shall be increased or decreased during the plan proportionately to the extent the debtor's monthly net income during the plan increases or decreases as reasonably determined by the trustee, subject to section 111 of this title, no less frequently than as of each anniversary of the confirmation of the plan based on monthly net income as of 45 days before such anniversary; and

''(iv) nothing in subparagraph (i) or (ii) shall prevent the payment of obligations described in section 507(a)(7) at the times provided for in the plan, and the plan shall specify how payments to other creditors under subparagraph (ii) will be accordingly adjusted.''; and

(6) by striking section 1325(b)(2).

SEC. 103. DEFINITION OF INAPPROPRIATE USE.

Section 707(b) of title 11, United States Code, is amended to read as follows:

''(b)(1) After notice and a hearing, the court—

''(A) on its own motion or on the motion of the United States trustee or any party in interest, shall dismiss a case filed by an individual debtor under this chapter; or

''(B) with the debtor's consent, convert the case to a case under chapter 13 of this title;

if the court finds that the granting of relief would be an inappropriate use of the provisions of this chapter.

''(2) The court shall determine that inappropriate use of the provisions of this chapter exists if—

''(A) the debtor is excluded from this chapter pursuant to section 109 of this title; or

''(B) the totality of the circumstances of the debtor's financial situation demonstrates such inappropriate use.

''(3) In the case of a motion filed by a party in interest other than the trustee or United States trustee under paragraph (1) that is denied by the court, the court shall award against the moving party a reasonable attorney's fee and costs that the debtor incurred in opposing the motion if the court finds that the position of the moving party was not substantially justified, but the court shall not award such fee and costs if special circumstances would make the award unjust.

''(4)(A) If a trustee appointed under this title or the United States Trustee files a motion under this subsection and the case is subsequently dismissed or converted to another chapter, the court shall award to such party in interest a reasonable attorney's fee and costs incurred in connection with such motion, payable by the debtor, unless the court finds that awarding such fee and costs would impose an unreasonable hardship on the debtor, considering the debtor's conduct.

''(B) The signature of the debtor's attorney on any petition, pleading, motion, or other paper filed with the court in the case of the debtor shall constitute a certificate that the attorney has—

''(i) performed a reasonable investigation into the circumstances that gave rise to the petition and its schedules and statement of financial affairs or the pleading, as applicable; and

''(ii) determined that the petition and its schedules and statement of financial affairs or the pleading, as applicable, including the choice of this chapter—

''(I) is well grounded in fact; and

''(II) is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law and does not constitute an inappropriate use of the provisions of this chapter.

''(C) If the court finds that the attorney for the debtor signed a paper in violation of subparagraph (B), at a minimum, the court shall order—

''(i) the assessment of an appropriate civil penalty against the attorney for the debtor; and

''(ii) the payment of the civil penalty to the trustee or the United States Trustee.''.

SEC. 104. DEBTOR PARTICIPATION IN CREDIT COUNSELING PROGRAM.

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, as amended by section 102, is amended by adding at the end the following:

''(i)(1) Subject to paragraph (2) and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless such individual has, during the 90-day period preceding the date of filing of the petition, made a good-faith attempt to create a debt repayment plan outside the judicial system for bankruptcy law (commonly referred to as the 'bankruptcy system'), through a credit counseling program offered through credit counseling services described in section 342(b)(2) that has been approved by—

''(A) the United States trustee; or

''(B) the bankruptcy administrator for the district in which the petition is filed.

''(2) The United States trustee or bankruptcy administrator may not approve a program for inclusion on the list under paragraph (1) unless the counseling service offering the program offers the program without charge, or at an appropriately reduced charge, if payment of the regular charge would impose a hardship on the debtor or the debtor's dependents.

''(3) The United States trustee or bankruptcy administrator shall designate any geographical areas in the United States trustee region or judicial district, as the case may be, as to which the United States trustee or bankruptcy administrator has determined that credit counseling services needed to comply with this subsection are not available or are too geographically remote for debtors residing within the designated geographical areas. The clerk of the bankruptcy court for each judicial district shall maintain a list of the designated areas within the district.

''(4) The clerk shall exclude a particular counseling service from the list maintained under section 342(b)(2) of this title if the United States trustee or bankruptcy administrator orders that the counseling service not be included in the list.

''(5) The court may waive the requirement specified in paragraph (1) if—

''(A) no credit counseling services are available as designated under paragraphs (2) and (3);

''(B) the providers of credit counseling services available in the district are unable or unwilling to provide such services to the debtor in a timely manner; or

''(C) foreclosure, garnishment, attachment, eviction, levy of execution, or similar claim enforcement procedure that would have deprived the individual of property had commenced before the debtor could complete a good-faith attempt to create such a repayment plan.

''(6) A debtor who is subject to the exemption under paragraph (5)(C) shall be required to make a good-faith attempt to create a debt repayment plan outside the judicial system in the manner prescribed in paragraph (1) during the 30-day period beginning on the date of filing of the petition of that debtor.

''(7) A debtor shall be exempted from the bad faith presumption for repeat filing under section 362(c) of title 11 if the case is dismissed due to the creation of a debt repayment plan.

''(8) Only the United States trustee may make a motion for dismissal on the ground that the debtor did not comply with this subsection.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 406 and 407, is amended by adding at the end the following:

''(g)(1) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

''(A) a certificate from the credit counseling services that provided the debtor services under section 109(i), or a verified statement as to why such attempt was not required under section 109(i) or other substantial evidence of a good-faith attempt to create a debt repayment plan outside the bankruptcy system in the manner prescribed in section 109(i); and

''(B) a copy of the debt repayment plan, if any, developed under section 109(i) through the credit counseling service referred to in paragraph (1).

''(2) Only the United States trustee may make a motion for dismissal on the ground that the debtor did not comply with this subsection.''.

Subtitle B—Adequate Protections for Consumers

SEC. 111. NOTICE OF ALTERNATIVES.

(a) Section 342(b) of title 11, United States Code, is amended to read as follows:

''(b)(1) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the individual shall be given or obtain (as required to be certified under section 521(a)(1)(B)(viii)) a written notice that is prescribed by the United States trustee for the district in which the petition is filed pursuant to section 586 of title 28 and that contains the following:

''(A) A brief description of chapters 7, 11, 12 and 13 of this title and the general purpose, benefits, and costs of proceeding under each of such chapters.

''(B) A brief description of services that may be available to the individual from an independent nonprofit debt counselling service.

''(C) The name, address, and telephone number of each nonprofit debt counselling service (if any)—

''(i) with an office located in the district in which the petition is filed; or

''(ii) that offers toll-free telephone communication to debtors in such district.

''(2) Any such nonprofit debt counselling service that registers with the clerk of the bankruptcy court on or before December 10 of the preceding year shall be included in such list unless the chief bankruptcy judge of the district, after notice to the debt counselling service and the United States trustee and opportunity for a hearing, for good cause, orders that such debt counselling service shall not be so listed.

''(3) The clerk shall make such notice available to individuals whose debts are primarily consumer debts.''.

(b) Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (5) by striking ''and'' at the end;

(2) in paragraph (6) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(7) on or before January 1 of each calendar year, and also within 30 days of any change in the nonprofit debt counselling services registered with the bankruptcy court, prescribe and make available on request the notice described in section 342(b)(1) of title 11 for each district included in the region.''.

SEC. 112. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ''Director'') shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11 of the United States Code and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate individual debtors on how to better manage their finances.

(b) TEST—(1) The Director shall select 3 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) For a 1-year period beginning not later than 60 days after the date of the enactment of this Act, such curriculum and materials shall be made available by the Director, directly or indirectly, on request to individual debtors in cases filed in such 1-year period under chapter 7 or 13 of title 11 of the United States Code.

(3) The bankruptcy courts in each of such districts may require individual debtors in such cases to undergo such financial management training as a condition to receiving a discharge in such case.

(c) EVALUATION.—(1) During the 1-year period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11 of the United States Code, and by consumer counselling groups.

(2) Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs.

SEC. 113. DEFINITIONS.

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

(1) by inserting after paragraph (3) the following:

''(3A) 'assisted person' means any person whose debts consist primarily of consumer debts and whose non-exempt assets are less than $150,000;'';

(2) by inserting after paragraph (4) the following:

''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a proceeding under this title;''; and

(3) by inserting after paragraph (12A) the following:

''(12B) 'debt relief counselling agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer pursuant to section 110 of this title, but does not include any person that is any of the following or an officer, director, employee or agent thereof—

''(A) any nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(B) any creditor of the person to the extent the creditor is assisting the person to restructure any debt owed by the person to the creditor; or

''(C) any depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or credit union;''.

(b) CONFORMING AMENDMENT.—In section 104(b)(1) by inserting ''101(3),'' after ''sections''.

SEC. 114. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 526. Disclosures

''(a) A debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide the following notices to the assisted person:

''(1) the written notice required under section 342(b)(1) of this title; and

''(2) to the extent not covered in the written notice described in paragraph (1) of this section and no later than three business days after the first date on which a debt relief counselling agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons of the following—

''(A) all information the assisted person is required to provide with a petition and thereafter during a case under this title must be complete, accurate and truthful;

''(B) all assets and all liabilities must be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 of this title must be stated in those documents where requested after reasonable inquiry to establish such value;

''(C) current monthly total income, projected monthly net income and, in a chapter 13 case, monthly net income must be stated after reasonable inquiry; and

''(D) that information an assisted person provides during their case may be audited pursuant to this title and that failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

''(b) A debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

'''IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER

'''If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

'''The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

'''Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a ''trustee'' and by creditors.

'''If you select a chapter 7 proceeding, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so.

'''If you select a chapter 13 proceeding in which you repay your creditors what you can afford over three to seven years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.'

'''If you select another type of proceeding under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of proceeding.

'''Your bankruptcy proceeding may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can represent you in litigation.'.

''(c) Except to the extent the debt relief counselling agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief counselling agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which may be provided orally or in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

''(1) how to value assets at replacement value, determine current monthly total income, projected monthly income and, in a chapter 13 case, net monthly income, and related calculations;

''(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

''(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506 of this title.

''(d) A debt relief counselling agency shall maintain a copy of the notices required under subsection (a) of this section for two years after the later of the date on which the notice is given the assisted person.''.

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 525 the following:

''526. Disclosures.''.

SEC. 115. DEBTOR'S BILL OF RIGHTS.

(a) DEBTOR'S BILL OF RIGHTS.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 114, is amended by adding at the end the following:

''§ 527. Debtor's bill of rights

''(a) A debt relief counselling agency shall—

''(1) no later than three business days after the first date on which a debt relief counselling agency provides any bankruptcy assistance services to an assisted person, execute a written contract with the assisted person specifying clearly and conspicuously the services the agency will provide the assisted person and the basis on which fees or charges will be made for such services and the terms of payment, and give the assisted person a copy of the fully executed and completed contract in a form the person can keep;

''(2) disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages or otherwise) that the services or benefits are with respect to proceedings under this title, clearly and conspicuously using the following statement: 'We are a debt relief counselling agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement. An advertisement shall be of bankruptcy assistance services if it describes or offers bankruptcy assistance with a chapter 13 plan, regardless of whether chapter 13 is specifically mentioned, including such statements as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements which would lead a reasonable consumer to believe that help with debts was being offered when in fact in most cases the help available is bankruptcy assistance with a chapter 13 plan; and

''(3) if an advertisement directed to the general public indicates that the debt relief counselling agency provides assistance with respect to credit defaults, mortgage foreclosures, lease eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer

debt, disclose conspicuously in that advertisement that the assistance is with respect to or may involve proceedings under this title, using the following statement: ''We are a debt relief counselling agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code.'' or a substantially similar statement.

''(b) A debt relief counselling agency shall not—

''(1) fail to perform any service which the debt relief counseling agency has told the assisted person or prospective assisted person the agency would provide that person in connection with the preparation for or activities during a proceeding under this title;

''(2) make any statement, or counsel or advise any assisted person to make any statement in any document filed in a proceeding under this title, which is untrue or misleading or which upon the exercise of reasonable care, should be known by the debt relief counselling agency to be untrue or misleading;

''(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, what services the debt relief counselling agency can reasonably expect to provide that person, or the benefits an assisted person may obtain or the difficulties the person may experience if the person seeks relief in a proceeding pursuant to this title; or

''(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of that person filing a proceeding under this title or in order to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a proceeding under this title.''.

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, as amended by section 114, is amended by inserting after the item relating to section 526, the following:

''527. Debtor's bill of rights.''.

SEC. 116. ENFORCEMENT.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 114 and 115, is amended by adding at the end the following:

''§ 528. Debt relief counselling agency enforcement

''(a) ASSISTED PERSON WAIVERS INVALID.—Any waiver by any assisted person of any protection or right provided by or under section 526 or 527 of this title shall be void and may not be enforced by any Federal or State court or any other person.

''(b) NONCOMPLIANCE.—

''(1) Any contract between a debt relief counselling agency and an assisted person for bankruptcy assistance which does not comply with the requirements of section 526 or 527 of this title shall be treated as void and may not be enforced by any Federal or State court or by any other person.

''(2) Any debt relief counselling agency which has been found, after notice and hearing, to have—

''(A) failed to comply with any provision of section 526 or 527 with respect to a bankruptcy case or related proceeding of an assisted person;

''(B) provided bankruptcy assistance to an assisted person in a case or related proceeding which is dismissed or converted in lieu of dismissal under section 707 of this title or because of a failure to file bankruptcy papers, including papers specified in section 521 of this title; or

''(C) negligently or intentionally disregarded the requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such debt relief counselling agency shall be liable to the assisted person in the amount of any fees and charges in connection with providing bankruptcy assistance to such person which the debt relief counselling agency has already been paid on account of that proceeding and if the case has not been closed, the court may in addition require the debt relief counselling agency to continue to provide bankruptcy assistance services in the pending case to the assisted person without further fee or charge or upon such other terms as the court may order.

''(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating section 526 or 527 of this title, the State—

''(A) may bring an action to enjoin such violation;

''(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

''(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(c) RELATION TO STATE LAW.—This section and sections 526 and 527 shall not annul, alter, affect or exempt any person subject to those sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency.''.

(b) CONFORMING AMENDMENT.—The table of section for chapter 5 of title 11, United States Code, as amended by sections 114 and 115, is amended by inserting after the item relating to section 527, the following:

''528. Debt relief counselling agency enforcement.''.

SEC. 117. SENSE OF THE CONGRESS.

It is the sense of the Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 118. CHARITABLE CONTRIBUTIONS.

(a) DEFINITIONS.—Section 548(d) of title 11, United States Code, is amended by adding at the end the following:

''(3) In this section, the term 'charitable contribution' means a charitable contribution as defined in section 170(c) of the Internal Revenue Code of 1986, if such contribution—

''(A) is made by a natural person; and

''(B) consists of—

''(i) a financial instrument (as defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

''(ii) cash.

''(4) In this section, the term 'qualified religious or charitable entity or organization' means—

''(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or

''(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.''.

(b) TREATMENT OF PREPETITION QUALIFIED CHARITABLE CONTRIBUTIONS.

(1) IN GENERAL.—Section 548(a) of title 11, United States Code, is amended—

(A) by inserting ''(1)'' after ''(a)'';

(B) by striking ''(1) made'' and inserting ''(A) made'';

(C) by striking ''(2)(A)'' and inserting ''(B)(i)'';

(D) by striking ''(B)(i)'' and inserting ''(ii)(I)'';

(E) by striking ''(ii) was'' and inserting ''(II) was'';

(F) by striking ''(iii)'' and inserting ''(III)''; and

(G) by adding at the end the following:

''(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

''(A) the amount of such contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

''(B) the contribution made by a debtor exceeded the percentage amount of gross annual income specified in subparagraph (A), if the transfer was consistent with the practices of the debtor in making charitable contributions.''.

(2) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(A) by striking ''(b) The trustee'' and inserting ''(b)(1) Except as provided in paragraph (2), the trustee''; and

(B) by adding at the end the following:

''(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as defined in section 548(d)(3) of this title) that is not covered under section 548(a)(1)(B) of this title by reason of section 548(a)(2) of this title. Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.''.

(3) CONFORMING AMENDMENTS.—Section 546 of title 11, United States Code, is amended—

(A) in subsection (e)—

(i) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''; and

(ii) by striking ''548(a)(1)'' and inserting ''548(a)(1)(A)'';

(B) in subsection (f)—

(i) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''; and

(ii) by striking ''548(a)(1)'' and inserting ''548(a)(1)(A)''; and

(C) in the first subsection (g)—

(i) by striking ''section 548(a)(1)'' and inserting ''section 548(a)(1)(A)''; and

(ii) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''.

(c) TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS UNDER CHAPTER 7.—Section 707 of title 11, United States Code, is amended by adding at the end the following:

''(c) In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (as defined in section 548(d)(4)).''.

(d) TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS UNDER CHAPTER 13.—Section 111 of title 11, United States Code, as added by section 102, is amended by adding at the end the following:

''(c) For purposes of subsection (a), charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (defined in section 548(d)(4)), but not to exceed 15 percent of the debtor's gross income for the year in which such contributions are made, shall be considered to be additional expenses of the debtor required by extraordinary circumstances.''.

(e) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section is intended to limit the applicability of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

SEC. 119. REINFORCE THE FRESH START.

(a) RESTORATION OF AN EFFECTIVE DISCHARGE.—Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking ''by a court'' and inserting ''on a prisoner by any court'',

(2) by striking ''section 1915(b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915'', and

(3) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears.

(b) PROTECTION OF RETIREMENT FUNDS IN BANKRUPTCY.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (A) by striking ''and'' at the end;

(B) in subparagraph (B) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) retirement funds to the extent exempt from taxation under section 401, 403, 408, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''; and

(2) in subsection (d) by adding at the end the following:

''(12) Retirement funds to the extent exempt from taxation under 401, 403, 408, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''.

(c) EFFECTIVE PROTECTION FOR UTILITY SERVICE IN THE WAKE OF DEREGULATION.—Section 366 of title 11, United States Code, is amended by adding at the end the following:

''(c) For the purposes of this section, the term 'utility' includes any provider of gas, electric, telephone, telecommunication, cable television, satellite communication, water, or sewer service, whether or not such service is a regulated monopoly.''.

SEC. 119A. CHAPTER 11 DISCHARGE OF DEBTS ARISING FROM TOBACCO-RELATED DEBTS.

Section 1141(d) of title 11, United States Code, is amended by adding at the end the following:

''(5) The confirmation of a plan does not discharge a debtor that is a corporation from any debt arising from a judicial, administrative, or other action or proceeding that is—

''(A) related to the consumption or consumer purchase of a tobacco product; and

''(B) based in whole or in part on false pretenses, a false representation, or actual fraud.''.

Subtitle C—Adequate Protections for Secured Creditors

SEC. 121. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

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

(2) in paragraph (2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(3) If a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13, and if a single or joint case of that debtor was pending within the previous 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) of this title, the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease will terminate with respect to the debtor on the 30th day after the filing of the later case. If a party in interest requests, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) as to all creditors if—

''(i) more than 1 previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was pending within such 1-year period;

''(ii) a previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under any of chapters 7, 11, or 13 of this title, or any other reason to conclude that the later case will be concluded, if a case under chapter 7 of this title, with a discharge, and if a chapter 11 or 13 case, a confirmed plan which will be fully performed;

''(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of that creditor.

''(4) If a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of that debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b) of this title, the stay under subsection (a) will not go into effect upon the filing of the later case. On request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect. If a party in interest requests within 30 days of the filing of the later case, the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A stay imposed pursuant to the preceding sentence will be effective on the date of entry of the order allowing the stay to go into effect. A case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) as to all creditors if—

''(i) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

''(ii) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to pay adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or any other reason to conclude that the later case will not be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

''(B) as to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of that creditor.

''(5)(A) If a request is made for relief from the stay under subsection (a) with respect to real or personal property of any kind, and such request is granted in whole or in part, the court may order in addition that the relief so granted shall be in rem either for a definite period not less than 1 year or indefinitely. After the issuance of such an order, the stay under subsection (a) shall not apply to any property subject to such an in rem order in any case of the debtor under this title. If such an order so provides, such stay shall also not apply in any pending or later-filed case of any entity under this title that claims or has an interest in the subject property other than those entities identified in the court's order.

''(B) The court shall cause any order entered pursuant to this paragraph with respect to real property to be recorded in the applicable real property records, which recording shall constitute notice to all parties having or claiming an interest in such real property for purpose of this section.

''(6) For the purposes of this section, a case is pending from the time of the order for relief until the case is closed.''.

SEC. 122. DEFINITION OF HOUSEHOLD GOODS.

Section 101 of title 11, United States Code, is amended by inserting after paragraph (27) the following:

''(27A) 'household goods' has the meaning given such term in the Trade Regulation Rule on Credit Practices promulgated by the Federal Trade Commission (16 C.F.R. 444.1(i)), as in effect on the effective date of this paragraph;''.

SEC. 123. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521—

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

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

(C) by adding at the end the following:

''(6) in an individual case under chapter 7 of this title, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor takes 1 of the following actions within 30 days after the first meeting of creditors under section 341(a)—

''(A) enters into a reaffirmation agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

''(B) redeems such property from the security interest pursuant to section 722 of this title.

''If the debtor fails to so act within the 30-day period, the personal property affected shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.''; and

(2) in section 722 by inserting ''in full at the time of redemption'' before the period at the end.

SEC. 124. RELIEF FROM STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended as follows—

(1) in section 362—

(A) by striking ''(e), and (f)'' in subsection (c) and inserting in lieu thereof ''(e), (f), and (h)''; and

(B) by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

''(h) In an individual case pursuant to chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate securing in whole or in part a claim, or subject to an unexpired lease, if the debtor fails within the applicable time set by section 521(a)(2) of this title—

''(1) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate therein that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of

this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; or

''(2) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms;

unless the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.'';

(2) in section 521, as amended by sections 104, 406, and 407—

(A) in paragraph (2) by striking ''consumer'';

(B) in paragraph (2)(B)—

(i) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a)''; and

(ii) by striking ''forty-five day'' the second place it appears and inserting ''30-day'';

(C) in paragraph (2)(C) by inserting ''except as provided in section 362(h)'' before the semicolon; and

(D) by adding at the end the following:

''(h) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.

SEC. 125. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(i) the plan provides that the holder of such claim retain the lien securing such claim until the earlier of payment of the underlying debt determined under nonbankruptcy law or discharge under section 1328, and that if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and''.

SEC. 126. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended by inserting at the end the following:

''Notwithstanding the foregoing, in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate 60 days after a request under subsection (d) of this section, unless—

''(1) a final decision is rendered by the court within such 60-day period; or

''(2) such 60-day period is extended either by agreement of all parties in interest or by the court for a specific time which the court finds is required by compelling circumstances.''.

SEC. 127. STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.

Section 348(f)(1) of title 11, United States Code, is amended—

(1) by striking in subparagraph (B) ''in the converted case, with allowed secured claims'' and inserting in lieu thereof ''only in a case converted to chapter 11 or 12 but not in one converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12''; and

(2) in subparagraph (A) by striking ''and'' at the end;

(3) in subparagraph (B) by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(C) with respect to cases converted from chapter 13, the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of that claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the case under chapter of this title. Unless a prebankruptcy default has been fully cured pursuant to the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.''.

SEC. 128. RESTRAINING ABUSIVE PURCHASES ON SECURED CREDIT.

Section 506 of title 11, United States Code, is amended by adding at the end the following:

''(e) In an individual case under chapter 7, 11, 12, or 13—

''(1) subsection (a) shall not apply to an allowed claim to the extent attributable in whole or in part to the purchase price of personal property acquired by the debtor within 180 days of the filing of the petition, except for the purpose of applying paragraph (3) of this subsection;

''(2) if such allowed claim attributable to the purchase price is secured only by the personal property so acquired, the value of the personal property and the amount of the allowed secured claim shall be the sum of the unpaid principal balance of the purchase price and accrued and unpaid interest and charges at the contract rate;

''(3) if such allowed claim attributable to the purchase price is secured by the personal property so acquired and other property, the value of the security may be determined under subsection (a), but the value of the security and the amount of the allowed secured claim shall be not less than the unpaid principal balance of the purchase price of the personal property acquired and unpaid interest and charges at the contract rate; and

''(4) in any subsequent case under this title that is filed by or against the debtor in the 2-year period beginning on the date the petition is filed in the original case, the value of the personal property and the amount of the allowed secured claim shall be deemed to be not less than the amount provided under paragraphs (2) and (3).''.

SEC. 129. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by adding at the end the following:

''In the case of an individual debtor under chapters 7 and 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of filing the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purpose, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.''.

SEC. 130. PROTECTION OF HOLDERS OF CLAIMS SECURED BY DEBTOR'S PRINCIPAL RESIDENCE.

Title 11, United States Code, is amended—

(1) in section 101 by inserting after paragraph (13) the following:

''(13A) 'debtor's principal residence' means a residential structure including incidental property when the structure contains 1 to 4 units, whether or not that structure is attached to real property, and includes, without limitation, an individual condominium or cooperative unit or mobile or manufactured home or trailer;

''(13B) 'incidental property' means property incidental to such residence including, without limitation, property commonly conveyed with a principal residence where the real estate is located, window treatments, carpets, appliances and equipment located in the residence, and easements, appurtenances, fixtures, rents, royalties, mineral rights, oil and gas rights, escrow funds and insurance proceeds;'';

(2) in section 362(b)—

(A) in paragraph (17) by striking ''or'' at the end thereof;

(B) in paragraph (18) by striking the period at the end and inserting ''; or''; and

(C) by inserting after paragraph (18) the following:

''(19) under subsection (a), until a prepetition default is cured fully in a case under chapter 13 of this title case by actual payment of all arrears as required by the plan, of the postponement, continuation or other similar delay of a prepetition foreclosure proceeding or sale in accordance with applicable nonbankruptcy law, but nothing herein shall imply that such postponement, continuation or other similar delay is a violation of the stay under subsection (a).''; and

(3) by amending section 1322(b)(2) to read as follows:

''(2) modify the rights of holders of secured claims, other than a claim secured primarily by a security interest in property used as the debtor's principal residence at any time during 180 days prior to the filing of the petition, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims;''.

SEC. 131. AIRCRAFT EQUIPMENT AND VESSELS.

Section 1110(a)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking ''that become due on or after the date of the order'';

(2) in subparagraph (B)—

(A) in clause (i) by striking ''and'' at the end; and

(B) in clause (ii)—

(i) by inserting ''and within such 60-day period'' after ''order''; and

(ii) in subclause (II) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(iii) that occurs after the date of the order and such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract.''.

Subtitle D—Adequate Protections for Unsecured Creditors

SEC. 141. DEBTS INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) PRIORITY OF CLAIMS FOR DEBTS INCURRED TO PAY NONDISCHARGEABLE DEBTS.—Section 507(a) of title 11, United States Code, is amended by adding at the end the following:

''(10) Tenth, remaining allowed unsecured claims for debts that are nondischargeable under section 523(a)(19), but which shall be payable under this paragraph in the higher order of priority (if any) as the respective claims paid by incurring such debts.''.

(b) NONDISCHARGEABILITY OF DEBTS INCURRED TO PAY NONDISCHARGEABLE DEBTS.—Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17) by striking ''or'' at the end;

(2) in paragraph (18) by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(19) incurred to pay a debt that is nondischargeable under any other paragraph of this subsection.''.

SEC. 142. CREDIT EXTENSIONS ON THE EVE OF BANKRUPTCY PRESUMED NONDISCHARGEABLE.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

''(C) for purposes of subparagraph (A), consumer debts owed to a single creditor incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable, except that such

presumption shall not apply to consumer debts owed to a single creditor which are incurred for necessaries and aggregate $250 or less.''.

SEC. 143. FRAUDULENT DEBTS ARE NONDISCHARGEABLE IN CHAPTER 13 CASES.

Section 1328(a)(2) of title 11, United States Code, is amended—

(1) by inserting ''(2), (3)(B), (4),'' after ''paragraph''; and

(2) by inserting ''(6),'' after ''(5),''.

SEC. 144. APPLYING THE CODEBTOR STAY ONLY WHEN IT PROTECTS THE DEBTOR.

Section 1301(b) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) When the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) does not apply to such creditor, notwithstanding subsection (c), to the extent the creditor proceeds against the individual which received such consideration or against property not in the possession of the debtor which secures such claim, but this subsection shall not apply if the debtor is primarily obligated to pay the creditor in whole or in part with respect to the claim under a legally binding separation agreement, or divorce or dissolution decree, with respect to such individual or the person who has possession of such property.

''(3) When the debtor's plan provides that the debtor's interest in personal property subject to a lease as to which the debtor is the lessee will be surrendered or abandoned or no payments will be made under the plan on account of the debtor's obligations under the lease, the stay provided by subsection (a) shall terminate as of the date of confirmation of the plan notwithstanding subsection (c).''.

SEC. 145. CREDIT EXTENSIONS WITHOUT A REASONABLE EXPECTATION OF REPAYMENT MADE NONDISCHARGEABLE.

Section 523(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking ''or actual fraud,'' and inserting ''actual fraud, or use of a credit or charge card or other device to access a credit line without a reasonable expectation or ability to repay unless access to such credit, credit or charge card or other device to access the credit line was extended without an application therefor and reasonable evaluation of the debtor's ability to repay,'', and

(2) in subparagraph (B)(iv) by striking ''with intent to deceive'' and inserting ''without taking reasonable steps to ensure the accuracy of the statement''.

SEC. 146. DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

(a) NONDISCHARGEABILITY.—Title 11, United States Code, is amended—

(1) in section 523(a)(18)—

(A) by inserting ''(including interest)'' after ''law''; and

(B) in subparagraph (A) by striking ''and'' at the end and inserting ''or''; and

(2) in section 1328(a)(2) by striking ''or (9)'' and inserting ''(9), or (18)''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 130, is amended—

(1) in paragraph (19) by striking ''or'' at the end;

(2) in paragraph (19) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(20) under subsection (a) with respect to the withholding of income pursuant to an order as specified in section 466(b) of the Social Security Act; or

''(21) under subsection (a) with respect to the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses pursuant to State law as specified in section 466(a)(15) of the Social Security Act or with respect to the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act.''.

(c) CONTINUED LIABILITY OF PROPERTY.—Section 522(c) of title 11, United States Code, is amended by striking ''section 523(a)(1) or 523(a)(5)'' and inserting ''paragraph (1), (5), or (18) of section 523(a)''.

(d) PRIORITY OF CLAIMS.—Section 507(a) of title 11, United States Code, as amended by section 141, is amended—

(1) in paragraph (10) by striking ''(10) Tenth'' and inserting ''(11) Eleventh'';

(2) in paragraph (9) by striking ''(9) Ninth'' and inserting ''(10) Tenth'';

(3) in paragraph (8) by striking ''(8) Eighth '' and inserting ''(9) Ninth''; and

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

''(8) Eighth, allowed unsecured claims for debts that are nondischargeable under section 523(a)(18).''.

(e) CONFIRMATION OF PLANS.—Title 11 of the United States Code is amended—

(1) in section 1129(a) by adding at the end the following:

''(14) If the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed.'';

(2) in section 1225(a)—

(A) in paragraph (5) by striking ''and'' at the end;

(B) in paragraph (6) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed.''; and

(3) in section 1325(a)—

(A) in paragraph (5) by striking ''and'' at the end;

(B) in paragraph (6) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) if the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed.''.

(f) DISCHARGE.—Title 11 United States Code is amended—

(1) in section 1228(a) by inserting ''and only after a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, certifies that all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed have been paid,'' after ''this title,''; and

(2) in section 1328(a) by inserting ''and only after a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, certifies that all amounts payable under such order for alimony, maintenance, or support that are due after the date the petition is filed have been paid,'' after ''plan,'' the 1st place it appears.

(g) CONFORMING AMENDMENTS.—Section 456(b) of the Social Security Act (42 U.S.C. 656(b)) is amended—

(1) by inserting '', including interest,'' after ''Code)'';

(2) by striking ''and'' and inserting ''or''; and

(3) by striking ''released by a discharge'' and inserting ''dischargeable''.

SEC. 147. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523(a)(5) of title 11, United States Code, is amended to read as follows:

''(5) to a spouse, former spouse, or child of the debtor for alimony to, maintenance for, or support of such spouse or child, or to a spouse, former spouse, or child of the debtor, to the extent such debt is the result of a property settlement agreement, a hold harmless agreement, or any other type of debt that is not in the nature of alimony, maintenance, or support in connection with or incurred by the debtor in the course of a separation agreement, divorce decree, any modifications thereof, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, but not to the extent that such debt is assigned to another entity, voluntarily, by operation of law, or otherwise (other than debts assigned pursuant to section 408(a)(3) of the Social Security Act, or such debt that has been assigned to the Federal government, or to a State or political subdivision of such State, or the creditor's attorney);''.

SEC. 148. OTHER EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended—

(1) by striking subsection (a)(15), as added by section 304(e)(1) of Public Law 103–394;

(2) in subsection (a)(7) by inserting ''(including property or funds required to be disgorged)'' after ''penalty''; and

(3) in subsection (c)(1) by striking ''(6), or (15)'' and inserting ''or (6)''.

SEC. 149. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

(a) EXCEPTION TO DISCHARGE.—Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking ''dwelling'' the 1st place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the 1st place it appears; and

(4) by striking ''but only'' and all that follows through ''such period,'', and inserting ''or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,''.

(b) EXECUTORY CONTRACTS.—Section 365 of title 11, United States Code, as amended by section 161, is amended by adding at the end the following:

''(q) A debt of a kind described in section 523(a)(16) of this title shall not be considered to be a debt arising from an executory contract.''

SEC. 150. PROTECTION OF CHILD SUPPORT AND ALIMONY.

(a) AMENDMENT.—Title 11 of the United States Code, as amended by section 116, is amended by inserting after section 528 the following:

''§529. Protection of child support and alimony payments after the discharge

''Notwithstanding the provisions of the constitution or law of any State providing a different priority, any debts of the individual who has received a discharge under this title to a spouse, former spouse, or child for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree, or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

''(1) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

''(2) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance, or support,

shall have priority in payment and collection over a creditor's claim which is not discharged

in the individual's case pursuant to paragraph (2), (4), or (14) of section 523(a) of this title, but such priority shall not affect the priority of any consensual lien, mortgage, or security interest securing such creditor's claim.''.

(b) CONFORMING AMENDMENT.—The table of sections of chapter 5 of title 11, United States Code, as amended by section 116, is amended by inserting after the item relating to section 528 the following:

''529. Protection of child support and alimony.''.

SEC. 151. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

''(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission pursuant to section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission pursuant to section 6 of the Securities Exchange Act of 1934;''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 130 and 146, is amended—

(1) in paragraph (20) by striking ''or'' at the end;

(2) in paragraph (21) by striking the period at the end and a inserting ''; or''; and

(3) by adding at the end the following:

''(22) under subsection (a) of this section, of the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power; of the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or of any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements.''.

Subtitle E—Adequate Protections for Lessors

SEC. 161. GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.

Section 365 of title 11, United States Code, is amended by adding at the end the following:

''(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) of this title is automatically terminated.

''(2) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the lessor. If within 30 days of such notice the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate. The stay under section 362 of this title and the injunction under section 524(a)(2) of this title shall not be violated by notification of the debtor and negotiation of cure under this subsection.

''(3) In a case under chapter 11 of this title in which the debtor is an individual and in a case under chapter 13 of this title, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 of this title and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.''.

SEC. 162. ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.

Title 11, United States Code, is amended by adding after section 1307 the following:

''§ 1307A. Adequate protection in chapter 13 cases

''(a)(1) On or before 30 days after the filing of a case under this chapter, the debtor shall make cash payments in the amount described below to any lessor of personal property and to any creditor holding a claim secured by personal property to the extent such claim is attributable to the purchase of such property by the debtor. The debtor or the plan shall continue such payments until the earlier of—

''(A) the time at which the creditor begins to receive actual payments under the plan; or

''(B) the debtor relinquishes possession of such property to the lessor or creditor, or to any third party acting under claim of right, as applicable.

''(2) Such cash payments shall be in the amount of any weekly, biweekly, monthly or other periodic payment scheduled as payable under the contract between the debtor and creditor; shall be paid at the times at which such payments are scheduled to be made; and shall not include any arrearages, penalties, or default or delinquency charges. Such payments shall be deemed to be adequate protection payments under section 362 of this title.

''(b) The court may, after notice and hearing, change the amount and timing of the adequate protection payment under subsection (a), but in no event shall it be payable less frequently than monthly or in an amount less than the reasonable depreciation of such property month to month.

''(c) Notwithstanding section 1326(b) of this title, if a confirmed plan provides for payments to a creditor or lessor described in subsection (a) and provides that payments to such creditor or lessor under the plan will be deferred until payment of amounts described in section 1326(b) of this title, the payments required hereunder shall nonetheless be continued in addition to plan payments until actual payments to the creditor begin under the plan.

''(d) Notwithstanding sections 362, 542, and 543 of this title, a lessor or creditor described in subsection (a) may retain possession of property described in subsection (a) which was obtained rightfully prior to the date of filing of the petition until the first such adequate protection payment is received by the lessor or creditor. Such retention of possession and any acts reasonably related thereto shall not violate the stay imposed under section 362(a) of this title, nor any obligations imposed under section 542 or 543 of this title.

''(e) On or before 60 days after the filing of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of that property shall provide each creditor or lessor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.''.

SEC. 163. ADEQUATE PROTECTION FOR LESSORS.

Section 362(b)(10) of title 11, United States Code, is amended by striking ''nonresidential''.

Subtitle F—Bankruptcy Relief Less Frequently Available for Repeat Filers

SEC. 171. EXTEND PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8) by striking ''six'' and inserting ''10''; and

(2) in section 1328 by adding at the end the following:

''(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502 of this title if the debtor has received a discharge in any case filed under this title within 5 years of the order for relief under this chapter.''.

Subtitle G—Exemptions

SEC. 181. EXEMPTIONS.

Section 522(b)(2)(A) of title 11, United States Code, is amended—

(1) by striking ''180'' and inserting ''365''; and

(2) by striking '', or for a longer portion of such 180-day period than in any other place''.

SEC. 182. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(A) by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following:

''(n)(1) Except as provided in paragraph (2), as a result of electing under subsection (b)(2)(A) to exempt property under State or local law, a debtor may not exempt any interest to the extent that such interest exceeds $100,000 in value, in the aggregate, in—

''(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(C) a burial plot for the debtor or a dependent of the debtor.

''(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(2)(A) by a family farmer for the principal residence of that farmer.''.

TITLE II—BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Provisions

SEC. 201. LIMITATION RELATING TO THE USE OF FEE EXAMINERS.

Section 330 of title 11, United States Code, is amended by adding at the end the following:

''(e) The court may not appoint any person to examine any request for compensation or reimbursement payable under this section.''.

SEC. 202. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

''(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.''.

SEC. 203. CHAPTER 12 MADE PERMANENT LAW.

Section 302(f) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (11 U.S.C. 1201 note) is repealed.

SEC. 204. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.''.

SEC. 205. CREDITORS' AND EQUITY SECURITY HOLDERS' COMMITTEES.

Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) The court on its own motion or on request of a party in interest, and after notice and a hearing, may order a change in membership of a committee appointed under subsection (a) if necessary to ensure adequate representation of creditors or of equity security holders.''.

SEC. 206. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

''(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.''.

SEC. 207. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by amending paragraph (2) to read as follows:

''(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

''(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

''(B) made according to ordinary business terms;'';

(2) in paragraph (7) by striking ''or'' at the end;

(3) in paragraph (8) by striking the period at the end and inserting ''; or''; and

(4) by adding at the end the following:

''(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5000.''.

SEC. 208. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting '', or a nonconsumer debt against a noninsider of less than $10,000,'' after ''$5,000''.

SEC. 209. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking ''On'' and inserting ''(1) Subject to paragraph (1), on''; and

(2) by adding at the end the following:

''(2)(A) Such 120-day period may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

''(B) Such 180-day period may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.''.

SEC. 210. PERIOD FOR FILING PLAN UNDER CHAPTER 12.

(a) EXTENSION OF PERIOD.—Section 1221 of title 11, United States Code, is amended by inserting ''to any period not later than 150 days after the order for relief'' after ''period''.

(b) RELIEF FROM THE STAY.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking ''or'' at the end;

(2) in paragraph (3) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) with respect to a stay of an act against property under subsection (a) of a debtor in a case under chapter 12, by a creditor whose claim is secured by an interest in such property, unless the debtor has filed a plan in accordance with section 1221.''.

(c) SPECIAL TREATMENT OF SECURED CLAIMS.—(1) Chapter 12 of title 11, United States Code, is amended by inserting after section 1231 the following:

''§1232. Special treatment of secured claims

''(a)(1) A claim secured by a lien on property of the estate shall be allowed or disallowed under section 502 of this title the same as if the holder of such claim had recourse against the debtor on account of such claim, whether or not such holder has such recourse, unless—

''(A) subject to paragraph (2), the holder of such claim elects to apply subsection (b); or

''(B) such holder does not have such recourse, and such property is sold under section 363 of this title or is to be sold under the plan.

''(2) A holder of a claim may not elect to apply subsection (b) if—

''(A) such claim is of inconsequential value; or

''(B) the holder of a claim has recourse against the debtor on account of such claim, and such property is sold under section 363 of this title or is to be sold under the plan.

''(b) If such an election is made to apply this subsection, then notwithstanding section 506(a) of this title, such claim is a secured claim to the extent such claim is allowed.''.

(2) The table of sections of chapter 12 of title 11, United States Code, is amended by inserting after the item relating to section 1231 the following:

''1232. Special treatment of secured claims.''.

SEC. 211. CASES ANCILLARY TO FOREIGN PROCEEDINGS INVOLVING FOREIGN INSURANCE COMPANIES THAT ARE ENGAGED IN THE BUSINESS OF INSURANCE OR REINSURANCE IN THE UNITED STATES.

Section 304 of title 11, United States Code, is amended—

(1) in subsection (b) by striking ''provisions of subsection (c)'' and inserting ''subsections (c) and (d)''; and

(2) by adding at the end the following:

''(d) The court may not grant to a foreign representative of the estate of an insurance company that is not organized under the law of a State and that is engaged in the business of insurance, or reinsurance, in the United States relief under subsection (b) with respect to property that is—

''(1) a deposit required by a State law relating to insurance or reinsurance;

''(2) a multibeneficiary trust required by a State law relating to insurance or reinsurance to protect holders of insurance policies issued in the United States or to protect holders or claimants against such policies; or

''(3) a multibeneficiary trust authorized by a State law relating to insurance or reinsurance to allow a person engaged in the business of insurance in the United States—

''(A) to cede reinsurance to such an insurance company; and

''(B) to treat so ceded reinsurance as an asset, or deduction from liability, in financial statements of such person.''.

SEC. 212. REJECTION OF EXECUTORY CONTRACTS AFFECTING INTELLECTUAL PROPERTY RIGHTS TO RECORDINGS OF ARTISTIC PERFORMANCE.

Section 365(n) of title 11, United States Code, is amended at the end the following:

''(5) The rejection by the trustee of an executory contract affecting the intellectual property rights to recordings of artistic performance shall not in any way diminish or impair any applicable nonbankruptcy law rights to enforce noncompetition provision or provisions regarding the rendering of exclusive services as a performing artist that may be contained in such contracts, except that such enforcement shall be subject to the nondebtor party providing to the debtor notice of an offer to perform the contract under all of its original terms. The rights to enforce such noncompetition or exclusivity provision shall not be treated as claims that can be discharged under this title.''.

SEC. 213. UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY.

Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

''(4) In a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is the lessee before the earlier of (A) 120 days after the date of the order for relief, or (B) the entry of an order confirming a plan, then such lease is deemed rejected, and the trustee shall immediately surrender such nonresidential real property to the lessor but in no event shall such time period exceed 120 days. Notwithstanding the immediately preceding sentence, and provided no plan has been confirmed, upon debtor's motion, and after notice and a hearing, the court may within such 120-day period extend the 120-day period by a period not to exceed 150 days, contingent upon written consent of the affected lessor or with the approval of the court, and provided trustee has timely performed all post-petition lease obligations, but in no circumstance shall such period extend beyond the earlier of (i) 270 days from the date of the order for relief or (ii) the entry of an order approving a disclosure statement, without the consent of the lessor.''.

SEC. 214. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

''(14) 'disinterested person' means a person that—

''(A) is not a creditor, an equity security holder, or an insider;

''(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

''(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;''.

Subtitle B—Specific Provisions

CHAPTER 1—SMALL BUSINESS BANKRUPTCY

SEC. 231. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;

''(51D) 'small business debtor' means—

''(A) a person (including affiliates of such person that are also debtors under this title) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $5,000,000 (excluding debts owed to 1 or more affiliates or insiders); or

''(B) a debtor of the kind described in paragraph (51B) but without regard to the amount of such debtor's debts;

except that if a group of affiliated debtors has aggregate noncontingent liquidated secured and unsecured debts greater than $5,000,000 (excluding debt owed to 1 or more affiliates or insiders), then no member of such group is a small business debtor;''.

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business''.

SEC. 232. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125(f) of title 11, United States Code, is amended to read as follows:

''(f) Notwithstanding subsection (b), in a small business case—

''(1) in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information;

''(2) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(3) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted pursuant to section 2075 of title 28; and

''(4)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

''(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not

less than 20 days before the date of the hearing on confirmation of the plan; and

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

SEC. 233. STANDARD FORM DISCLOSURE STATEMENTS AND PLANS.

The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101) of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee or bankruptcy administrator, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 234. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—(1) Title 11 of the United States Code is amended by inserting after section 307 the following:

''§308. Debtor reporting requirements

''A small business debtor shall file periodic financial and other reports containing information including—

''(1) the debtor's profitability, that is, approximately how much money the debtor has been earning or losing during current and recent fiscal periods;

''(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

''(4) whether the debtor is—

''(A) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(B) timely filing tax returns and paying taxes and other administrative claims when due, and, if not, what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(5) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

(2) The table of sections of chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

''308. Debtor reporting requirements.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed pursuant to section 2075, title 28, United States Code to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 235. UNIFORM REPORTING RULES AND FORMS.

After consultation with the Director of the Executive for United States Trustees and with the Judicial Conference of the United States, the Attorney General of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to comply with section 308 of title 11, United States Code, as added by section 234 of this Act to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee or bankruptcy administrator, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors in cases under such title.

SEC. 236. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Title 11 of the United States Code is amended by inserting after section 1114 the following:

''§1115. Duties of trustee or debtor in possession in small business cases

''In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

''(1) append to the voluntary petition or, in an involuntary case, file within 3 days after the date of the order for relief—

''(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

''(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

''(2) attend, through its senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 of this title;

''(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

''(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

''(5) subject to section 363(c)(2), maintain insurance customary and appropriate to the industry;

''(6)(A) timely file tax returns;

''(B) subject to section 363(c)(2), timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and

''(C) subject to section 363(c)(2), establish 1 or more separate deposit accounts not later than 10 business days after the date of order for relief (or as soon thereafter as possible if all banks contacted decline the business) and deposit therein, not later than 1 business day after receipt thereof, all taxes payable for periods beginning after the date the case is commenced that are collected or withheld by the debtor for governmental units; and

''(7) allow the United States trustee or bankruptcy administrator, or its designated representative, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.''.

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 11, United States Code, is amended by inserting after the item relating to section 1114 the following:

''1115. Duties of trustee or debtor in possession in small business cases.''.

SEC. 237. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121(e) of title 11, United States Code, is amended to read as follows:

''(e) In a small business case—

''(1) only the debtor may file a plan until after 90 days after the date of the order for relief, unless shortened on request of a party in interest made during the 90-day period, or unless extended as provided by this subsection, after notice and hearing the court, for cause, orders otherwise;

''(2) the plan, and any necessary disclosure statement, shall be filed not later than 90 days after the date of the order for relief; and

''(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e) of this title, within which the plan shall be confirmed may be extended only if—

''(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable time;

''(B) a new deadline is imposed at the time the extension is granted; and

''(C) the order extending time is signed before the existing deadline has expired.''.

SEC. 238. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a small business case, the plan shall be confirmed not later than 150 days after the date of the order for relief unless such 150-day period is extended as provided in section 1121(e)(3) of this title.''.

SEC. 239. PROHIBITION AGAINST EXTENSION OF TIME.

Section 105(d) of title 11, United States Code, is amended—

(1) in paragraph (2)(B)(vi) by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

''(3) in a small business case, not extend the time periods specified in sections 1121(e) and 1129(e) of this title except as provided in section 1121(e)(3) of this title.''.

SEC. 240. DUTIES OF THE UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR.

(a) DUTIES OF THE UNITED STATES TRUSTEE.—Section 586(a) of title 28, United States Code, as amended by section 111, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G) by striking ''and'' at the end;

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

''(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases;'',

(2) in paragraph (6) by striking ''and'' at the end,

(3) in paragraph (7) by striking the period at the end and inserting ''; and'', and

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

''(8) in each of such small business cases—

''(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11 at which time the United States trustee shall begin to investigate the debtor's viability, inquire about the debtor's business plan, explain the debtor's obligations to file monthly operating reports and other required reports, attempt to develop an agreed scheduling order, and inform the debtor of other obligations;

''(B) when determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns;

''(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

''(D) in cases where the United States trustee finds material grounds for any relief under section 1112 of title 11 move the court promptly for relief.''.

(b) DUTIES OF THE BANKRUPTCY ADMINISTRATOR.—In a small business case (as defined in section 101 of title 11 of the United States Code), the bankruptcy administrator shall perform the duties specified in section 586(a)(6) of title 28 of the United States Code.

SEC. 241. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking '', may'';

(2) by amending paragraph (1) to read as follows:

''(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and''; and

(3) in paragraph (2) by striking ''unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure,'' and inserting ''may''.

SEC. 242. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, is amended—

(1) in subsection (i) as so redesignated by section 124—

(A) by striking ''An'' and inserting ''(1) Except as provided in paragraph (2), an''; and

(B) by adding at the end the following:

''(2) If such violation is based on an action taken by an entity in the good-faith belief that subsection (h) applies to the debtor, then recovery under paragraph (1) against such entity shall be limited to actual damages.''; and

(2) by inserting after subsection (i), as redesignated by section 124, the following:

''() The filing of a petition under chapter 11 of this title operates as a stay of the acts described in subsection (a) only in an involuntary case involving no collusion by the debtor with creditors and in which the debtor—

''(1) is a debtor in a small business case pending at the time the petition is filed;

''(2) was a debtor in a small business case which was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

''(3) was a debtor in a small business case in which a plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

''(4) is an entity that has succeeded to substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C) unless the debtor proves, by a preponderance of the evidence, that the filing of such petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and that it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable time.''.

SEC. 243. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112(b) of title 11, United States Code, is amended to read as follows:

''(b)(1) Except as provided in paragraph (2), in subsection (c), and in section 1104(a)(3) of this title, on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 of this title or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

''(2) The relief provided in paragraph (1) shall not be granted if the debtor or another party in interest objects and establishes, by a preponderance of the evidence that—

''(A) it is more likely than not that a plan will be confirmed within a time as fixed by this title or by order of the court entered pursuant to section 1121(e)(3), or within a reasonable time if no time has been fixed; and

''(B) if the reason is an act or omission of the debtor that—

''(i) there exists a reasonable justification for the act or omission; and

''(ii) the act or omission will be cured within a reasonable time fixed by the court not to exceed 30 days after the court decides the motion, unless the movant expressly consents to a continuance for a specific period of time, or compelling circumstances beyond the control of the debtor justify an extension.

''(3) For purposes of this subsection, cause includes—

''(A) substantial or continuing loss to or diminution of the estate;

''(B) gross mismanagement of the estate;

''(C) failure to maintain appropriate insurance;

''(D) unauthorized use of cash collateral harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

''(G) failure to attend the meeting of creditors convened under section 341(a) of this title or an examination ordered under rule 2004 of the Federal Rules of Bankruptcy Procedure;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee;

''(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

''(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

''(K) failure to pay any fees or charges required under chapter 123 of title 28;

''(L) revocation of an order of confirmation under section 1144 of this title, and denial of confirmation of another plan or of a modified plan under section 1129 of this title;

''(M) inability to effectuate substantial consummation of a confirmed plan;

''(N) material default by the debtor with respect to a confirmed plan; and

''(O) termination of a plan by reason of the occurrence of a condition specified in the plan.

''(4) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.''.

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.—Section 1104(a) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

''(3) if grounds exist to convert or dismiss the case under section 1112 of this title, but the court determines that the appointment of a trustee is in the best interests of creditors and the estate.''.

CHAPTER 2—SINGLE ASSET REAL ESTATE

SEC. 251. SINGLE ASSET REAL ESTATE DEFINED.

Section 101(51B) of title 11, United States Code, is amended to read as follows:

''(51B) 'single asset real estate' means undeveloped real property or other real property constituting a single property or project, other than residential real property with fewer than 4 residential units, on which is located a single development or project which property or project generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor, or by a commonly controlled group of entities all of which are concurrently debtors in a case under chapter 11 of this title, other than the business of operating the real property and activities incidental thereto;''.

SEC. 252. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting ''or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later'' after ''90-day period)''; and

(2) by amending subparagraph (B) to read as follows:

''(B) the debtor has commenced monthly payments (which payments may, in the debtor's sole discretion, notwithstanding section 363(c)(2) of this title, be made from rents or other income generated before or after the commencement of the case by or from the property) to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien), which payments are in an amount equal to interest at the then-applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or''.

TITLE III—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 301. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting ''notwithstanding section 301(b)'' before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''A voluntary''; and

(2) by amending the last sentence to read as follows:

''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.

TITLE IV—BANKRUPTCY ADMINISTRATION

Subtitle A—General Provisions

SEC. 401. ADEQUATE PREPARATION TIME FOR CREDITORS BEFORE THE MEETING OF CREDITORS IN INDIVIDUAL CASES.

Section 341(a) of title 11, United States Code, is amended by inserting after the first sentence the following: ''If the debtor is an individual in a voluntary case under chapter 7, 11, or 13, the meeting of creditors shall not be convened earlier than 60 days (or later than 90 days) after the date of the order for relief, unless the court, after notice and hearing, determines unusual circumstances justify an earlier meeting.''.

SEC. 402. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: ''Notwithstanding any local court rule, provision of a State constitution, any other State or Federal nonbankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or its representatives (which representatives may include an entity or an employee of an entity and may be a representative for more than 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13 either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

SEC. 403. FILING PROOFS OF CLAIM.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a case under chapter 7 or 13, a proof of claim or interest is deemed filed under this section for any claim or interest that appears in the schedules filed under section 521(a)(1) of this title, except a claim or interest that is scheduled as disputed, contingent, or unliquidated.''.

SEC. 404. AUDIT PROCEDURES.

(a) AMENDMENT.—Section 586 of title 28, United States Code, as amended by sections 111 and 240, is amended—

(1) by amending subsection (a)(6) to read as follows:

''(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f),'';

(2) by inserting at the end the following:

''(f)(1) The Attorney General shall establish procedures for the auditing of the accuracy and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322, and, if applicable, section 111, of title 11 in individual cases

filed under chapter 7 or 13 of such title. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants. Such procedures shall—

''(A) establish a method of selecting appropriate qualified persons to contract with the United States trustee to perform such audits;

''(B) establish a method of randomly selecting cases to be audited according to generally accepted audit standards, provided that no less than 1 out of every 100 cases in each Federal judicial district shall be selected for audit;

''(C) require audits for schedules of income and expenses which reflect higher than average variances from the statistical norm of the district in which the schedules were filed;

''(D) establish procedures for reporting the results of such audits and any material misstatement of income, expenditures or assets of a debtor to the Attorney General, the United States Attorney and the court, as appropriate, and for providing public information no less than annually on the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported; and

''(E) establish procedures for fully funding such audits.

''(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1) of this subsection.

''(3) According to procedures established under paragraph (1), upon request of a duly appointed auditor, the debtor shall cause the accounts, papers, documents, financial records, files and all other papers, things or property belonging to the debtor as the auditor requests and which are reasonably necessary to facilitate an audit to be made available for inspection and copying.

''(4) The report of each such audit shall be filed with the court, the Attorney General, and the United States Attorney, as required under procedures established by the Attorney General under paragraph (1). If a material misstatement of income or expenditures or of assets is reported, a statement specifying such misstatement shall be filed with the court and the United States trustee shall give notice thereof to the creditors in the case and, in an appropriate case, in the opinion of the United States trustee, requires investigation with respect to possible criminal violations, the United States Attorney for the district.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of the enactment of this Act.

SEC. 405. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7 AND 13 CASES.

Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(B) by adding the following at the end:

''If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor which is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall include such account number in any notice to the creditor required to be given under this title. If the creditor has specified to the debtor an address at which the creditor wishes to receive correspondence regarding the debtor's account, any notice to the creditor required to be given by the debtor under this title shall be given at such address. For the purposes of this section, 'notice' shall include, but shall not be limited to, any correspondence from the debtor to the creditor after the commencement of the case, any statement of the debtor's intention under section 521(a)(2) of this title, notice of the commencement of any proceeding in the case to which the creditor is a party, and any notice of the hearing under section 1324.'';

(2) by adding at the end the following:

''(d) At any time, a creditor in a case of an individual debtor under chapter 7 or 13 may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case. Five days after receipt of such notice, if the court or the debtor is required to give the creditor notice, such notice shall be given at that address.

''(e) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (d) with respect to a particular case.

''(f) Notice given to a creditor other than as provided in this section shall not be effective notice until it has been brought to the attention of the creditor. If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to such department or person, notice will not be brought to the attention of the creditor until received by such person or department. No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section.''.

SEC. 406. DEBTOR TO PROVIDE TAX RETURNS AND OTHER INFORMATION.

Section 521 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The'';

(2) by amending paragraph (1) to read as follows:

''(1) file—

''(A) a list of creditors, and

''(B) unless the court orders otherwise—

''(i) a schedule of assets and liabilities;

''(ii) a schedule of current income and current expenditures;

''(iii) a statement of the debtor's financial affairs;

''(iv) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days prior to the filing of the petition;

''(v) a statement of the amount of projected monthly net income, itemized to show how calculated;

''(vi) if applicable, any statement under paragraphs (3) and (4) of section 109(h);

''(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the next 12 months; and

''(viii) a certificate, if applicable—

''(I) of an attorney whose name is on the petition as the attorney for the debtor, or of any bankruptcy petition preparer who signed the petition pursuant to section 110(b)(1) of this title, indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b)(1) of this title; or

''(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition of the debtor, that such notice was obtained and read by the debtor;''; and

(3) by adding at the end the following:

''(b) At any time, a creditor in a case of an individual debtor under chapter 7 or 13 may file with the court and serve on the debtor notice that the creditor requests the petition, schedules, and statement of financial affairs filed by the debtor in the case. At any time, a creditor in a case under chapter 13 of this title may file with the court and serve on the debtor notice that the creditor requests the plan filed by the debtor in the case. Within 10 days of the first such request in a case under this subsection for the petition, schedules, and statement of financial affairs and the first such request for the plan under this subsection, the debtor shall serve on that creditor a conformed copy of the requested documents or plan and any amendments thereto as of that date, and shall thereafter promptly serve on that creditor at the time filed with the court—

''(1) any requested document or plan which is not filed with the court at the time requested; and

''(2) any amendment to any requested document or plan.

''(c)(1) An individual debtor in a case under chapter 7 or 13 shall provide to the United States trustee—

''(A) copies of all Federal tax returns (including any schedules and attachments) filed by the debtor for the 3 most recent tax years preceding the order for relief;

''(B) at the time the debtor files them with the Commissioner of Internal Revenue, all Federal tax returns (including any schedules and attachments) for the debtor's tax years ending while such case is pending; and

''(C) at the time the debtor files them with the Commissioner of Internal Revenue, all amendments to the tax returns (including schedules and attachments) described in subparagraphs (A) and (B).

''(2)(A) The United States trustee shall make such Federal tax returns (including schedules, attachments, and amendments) available to any party in interest for inspection and copying not later than 10 days after receiving a request by such party.

''(B) If the United States trustee does not comply with subparagraph (A), on the motion of such party, the court shall issue an order compelling the United States trustee to comply with subparagraph (A).

''(d) A debtor in a case under chapter 13 of this title shall file, from a time which is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief unless a plan has then been confirmed, and thereafter on or before 45 days before each anniversary of the confirmation of the plan until the case is closed, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly net income, showing how calculated. Such statement shall disclose the amount and sources of income of the debtor, the identity of any persons responsible with the debtor for the support of any dependents of the debtor, and any persons who contributed and the amount contributed to the household in which the debtor resides. Such tax returns, amendments and statement of income and expenditures shall be available to the United States trustee, any bankruptcy administrator, any trustee and any party in interest for inspection and copying.''.

SEC. 407. DISMISSAL FOR FAILURE TO FILE SCHEDULES TIMELY OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by section 406, is amended by adding at the end the following:

''(e) Notwithstanding section 707(a) of this title, if an individual debtor in a voluntary case under chapter 7 or 13 fails to provide all of the information required under subsections (a)(1) and (c)(1)(A) within 45 days after the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the filing of the petition without the need for any order of court, but any party in interest may request the court to enter an order dismissing the case and the court shall, if so requested, enter an order of dismissal within 5 days of such request. Upon request of the debtor made within 45 days after

the filing of the petition, the court may allow the debtor up to an additional 15 days to provide the information required under subsections (a)(1) and (c)(1)(A) if the court finds compelling justification for doing so.

''(f) If an individual debtor in a case under chapter 7 or 13 fails to perform any of the duties imposed by subsections (b), (c)(1)(B), (c)(1)(C), and (d), any party in interest may request that the court order the debtor to comply. Within 10 days of such request the court shall order that the debtor do so within a period of time set by the court no longer than 30 days. If the debtor does not comply with that order within the period of time set by the court, the court shall, on request of any party in interest certifying that the debtor has not so complied, enter an order dismissing the case within 5 days of such request.''.

SEC. 408. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking ''After'' and inserting the following:

''(a) Except as provided in subsection (b) and after''; and

(2) by adding at the end the following:

''(b) The hearing on confirmation of the plan may be held not earlier than 20 days, and not later than 45 days, after the meeting of creditors under section 341(a) of this title.''.

SEC. 409. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

''(d) If the total current monthly income of the debtor and in a joint case, the debtor and the debtor's spouse combined, is not less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, not less than the national median household income for 1 earner, the plan may not provide for payments over a period that is longer than 5 years, unless the court, for cause, approves a longer period, but the court may not approve a period that exceeds 7 years. If the total current monthly income of the debtor or in a joint case, the debtor and the debtor's spouse combined, is less than the highest national median family income reported for a family of equal or lesser size, or in the case of a household of 1 person less than the national median household income for 1 earner, the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.'';

(2) in section 1329—

(A) by striking in subsection (c) ''three years'' and inserting ''the applicable commitment period under section 1325(b)(1)(B)(ii)'' and by striking ''five years'' and inserting ''maximum duration period''; and

(B) by inserting at the end of subsection (c) the following:

''The maximum duration period shall be 5 years if the total current monthly income of the debtor, and in a joint case, the debtor and the debtor's spouse combined, is not less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, not less than the national median household income for 1 earner, as of the date of the modification and shall be 3 years if the total current monthly income is less than the highest national median family income reported for a family of equal or lesser size or, in the case of a household of 1 person, less than the national median household income for 1 earner as of the date of the modification.''.

SEC. 410. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of the Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is well grounded in fact, and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 411. JURISDICTION OF COURTS OF APPEALS.

(a) JURISDICTION.—Title 28 of the United States Code is amended—

(1) by striking section 158;

(2) by inserting after section 1292 the following:

''§1293. Bankruptcy appeals

''The courts of appeals (other the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from the following:

''(1) Final orders and judgments of bankruptcy courts entered under—

''(A) section 157(b) of this title in core proceedings arising under title 11, or arising in or related to a case under title 11; or

''(B) section 157(c)(2) of this title in proceedings referred to such courts.

''(2) Final orders and judgments of district courts entered under section 157 of this title in—

''(A) core proceedings arising under title 11, or arising in or related to a case under title 11; or

''(B) proceedings that are not core proceedings, but that are otherwise related to a case under title 11.

''(3) Orders and judgments of bankruptcy courts or district courts entered under section 105 of title 11, or the refusal to enter an order or judgment under such section.

''(4) Orders of bankruptcy courts or district courts entered under section 1104(a) or 1121(d) of title 11, or the refusal to enter an order under such section.

''(5) An interlocutory order of a bankruptcy court or district court entered in a case under title 11, in a proceeding arising under title 11, or in a proceeding arising in or related to a case under title 11, if—

''(A) such court is of the opinion that—

''(i) such order involves a controlling question of law as to which there is substantial ground for difference of opinion; and

''(ii) an immediate appeal from such order may materially advance the ultimate termination of such case or such proceeding; or

''(B) the court of appeals that would have jurisdiction of an appeal of a final order entered in such case or such proceeding permits, in its discretion, appeal to be taken from such interlocutory order.''; and

(3) in—

(A) the table of sections for chapter 6 by striking the item relating to section 158; and

(B) the table of sections for chapter 83 by inserting after the item relating to section 1292 the following:

''1293. Bankruptcy appeals.''.

(b) CONFORMING AMENDMENTS.—(1) Section 305(c) of title 11, the United States Code, is amended by striking ''158(d), 1291, or 1292'' and inserting ''1291, 1292, or 1293''.

(2) Title 28, United States Code, is amended—

(A) in subsections (b)(1) and (c)(2) of section 157 by striking ''section 158'' and inserting ''section 1293'';

(B) in section 1334(d) by striking ''158(d), 1291, or 1292'' and inserting ''1291, 1292, or 1293''; and

(C) in section 1452(b) by striking ''158(d), 1291, or 1292'' and inserting ''1291, 1292, or 1293''.

SEC. 412. ESTABLISHMENT OF OFFICIAL FORMS.

The Judicial Conference of the United States shall establish official forms to facilitate compliance with the amendments made by sections 101 and 102.

SEC. 413. ELIMINATION OF CERTAIN FEES PAYABLE IN CHAPTER 11 BANKRUPTCY CASES.

(a) AMENDMENTS.—Section 1930(a)(6) of title 28, United States Code, is amended—

(1) in the 1st sentence by striking ''until the case is converted or dismissed, whichever occurs first'', and

(2) in the 2d sentence—

(A) by striking ''The'' and inserting ''Until the plan is confirmed or the case is converted (whichever occurs first) the'', and

(B) by striking ''less than $300,000;'' and inserting ''less than $300,000. Until the case is converted or dismissed (whichever occurs first and without regard to confirmation of the plan) the fee shall be''.

(b) DELAYED EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

Subtitle B—Data Provisions

SEC. 441. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Title 28, United States Code, is amended by adding after section 158 the following new section:

''§159. Bankruptcy statistics

''The Director of the Executive Office for United States Trustees shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Such statistics shall be in a form prescribed by the Administrative Office of the United States Courts. The Office shall compile such statistics, and make them public, and report annually to the Congress on the information collected, and on its analysis thereof, no later than October 31 of each year. Such compilation shall be itemized by chapter of title 11, shall be presented in the aggregate and for each district, and shall include the following:

''(1) Total assets and total liabilities of such debtors, and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by such debtors.

''(2) The current total monthly income, projected monthly net income, and average income and average expenses of such debtors as reported on the schedules and statements the debtor has filed under sections 111, 521, and 1322 of title 11.

''(3) The aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable.

''(4) The average time between the filing of the petition and the closing of the case.

''(5) The number of cases in the reporting period in which a reaffirmation was filed and the total number of reaffirmations filed in that period, and of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney, and of those the number of cases in which the reaffirmation was approved by the court.

''(6) With respect to cases filed under chapter 13 of title 11—

''(A) the number of cases in which a final order was entered determining the value of property securing a claim less than the claim, and the total number of such orders in the reporting period; and

''(B) the number of cases dismissed for failure to make payments under the plan.

''(7) The number of cases in which the debtor filed another case within the 6 years previous to the filing.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 18 months after the date of the enactment of this Act.

SEC. 442. BANKRUPTCY DATA.

(a) AMENDMENT.—Title 28 of the United States Code is amended by inserting after section 589a the following:

''§ 589b. Bankruptcy data

''(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

''(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

''(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

''(b) REPORTS.—All reports referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at 1 or more central filing locations, and by electronic access through the Internet or other appropriate media.

''(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

''(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

''(d) FINAL REPORTS.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, include with respect to a case under such title—

''(1) information about the length of time the case was pending;

''(2) assets abandoned;

''(3) assets exempted;

''(4) receipts and disbursements of the estate;

''(5) expenses of administration;

''(6) claims asserted;

''(7) claims allowed; and

''(8) distributions to claimants and claims discharged without payment;

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

''(e) PERIODIC REPORTS.—Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include—

''(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

''(2) length of time the case has been pending;

''(3) number of full-time employees as at the date of the order for relief and at end of each reporting period since the case was filed;

''(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

''(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

''(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, in for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

''(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.''.

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 443. SENSE OF THE CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of the Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11 of the United States Code), should be released in a usable electronic form in bulk to the public subject to such appropriate privacy concerns and safeguards as the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE V—TAX PROVISIONS

SEC. 501. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting ''(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)'' after ''under this title'';

(2) in subsection (b)(2), after ''507(a)(1)'', insert ''(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)''; and

(3) by adding at the end the following:

''(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

''(1) exhaust the unencumbered assets of the estate; and

''(2) in a manner consistent with section 506(c) of this title, recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

''(f) Notwithstanding the exclusion of ad valorem tax liens set forth in this section and subject to the requirements of subsection (e)—

''(1) claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3) of this title; or

''(2) claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4) of this title,

may be paid from property of the estate which secures a tax lien, or the proceeds of such property.''.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

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

(3) by adding at the end the following:

''(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.''.

SEC. 502. ENFORCEMENT OF CHILD AND SPOUSAL SUPPORT.

Section 522(c)(1) of title 11, United States Code, is amended by inserting '', except that, notwithstanding any other Federal law or State law relating to exempted property, exempt property shall be liable for debts of a kind specified in paragraph (1) or (5) of section 523(a) of this title'' before the semicolon at the end.

SEC. 503. EFFECTIVE NOTICE TO GOVERNMENT.

(a) EFFECTIVE NOTICE TO GOVERNMENTAL UNITS.—Section 342 of title 11, United States Code, as amended by section 405, is amended by adding at the end the following:

''(g) If a debtor lists a governmental unit as a creditor in a list or schedule, any notice required to be given by the debtor under this title, any rule, any applicable law, or any order of the court, shall identify the department, agency, or instrumentality through which the debtor is indebted. The debtor shall identify (with information such as a taxpayer identification number, loan, account or contract number, or real estate parcel number, where applicable), and describe the underlying basis for the governmental unit's claim. If the debtor's liability to a governmental unit arises from a debt or obligation owed or incurred by another individual, entity, or organization, or under a different name, the debtor shall identify such individual, entity, organization, or name.

''(h) The clerk shall keep and update quarterly, in the form and manner as the Director of the Administrative Office of the United States Courts prescribes, and make available to debtors, a register in which a governmental unit may designate a safe harbor mailing address for service of notice in cases pending in the district. A governmental unit may file a statement with the clerk designating a safe harbor address to which notices are to be sent, unless such governmental unit files a notice of change of address.''.

(b) ADOPTION OF RULES PROVIDING NOTICE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption enhanced rules for providing notice to State, Federal, and local government units that have regulatory authority over the debtor or which may be creditors in the debtor's case. Such rules shall be reasonably calculated to ensure that notice will reach the representatives of the governmental unit, or subdivision thereof, who will be the proper persons authorized to act upon the notice. At a minimum, the rules should require that the debtor—

(1) identify in the schedules and the notice, the subdivision, agency, or entity in respect of which such notice should be received;

(2) provide sufficient information (such as case captions, permit numbers, taxpayer identification numbers, or similar identifying information) to permit the governmental unit or subdivision thereof, entitled to receive such notice, to identify the debtor or the person or entity on behalf of which the debtor is providing notice where the debtor may be a successor in interest or may not be the same as the person or entity which incurred the debt or obligation; and

(3) identify, in appropriate schedules, served together with the notice, the property in respect of which the claim or regulatory obligation may have arisen, if any, the nature of such claim or regulatory obligation and the purpose for which notice is being given.

(c) EFFECT OF FAILURE OF NOTICE.—Section 342 of title 11, United States Code, as amended by subsection (a) and section 405, is amended by adding at the end the following:

''(i)(1) A notice that does not comply with subsections (d) and (e) shall have no effect unless the debtor demonstrates, by clear and convincing evidence, that timely notice was given in a manner reasonably calculated to satisfy the requirements of this section was given, and that—

''(A) either the notice was timely sent to the safe harbor address provided in the register maintained by the clerk of the district in which the case was pending for such purposes; or

''(B) no safe harbor address was provided in such list for the governmental unit and that an officer of the governmental unit who is responsible for the matter or claim had actual knowledge of the case in sufficient time to act.

''(2) No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed unless the action takes place after notice of the commencement of the case as required by this section has been received.''.

SEC. 504. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended by striking ''Unless'' at the beginning of the second sentence thereof and inserting ''If the request is made in the manner designated by the governmental unit and unless''.

SEC. 505. RATE OF INTEREST ON TAX CLAIMS.

Chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 511. Rate of interest on tax claims

''Notwithstanding any provision of this title that requires the payment of interest on a claim, if interest is required to be paid on a tax claim, the rate of interest shall be as follows:

''(1) In the case of ad valorem tax claims, whether secured or unsecured, other unsecured tax claims where interest is required to be paid under section 726(a)(5) of this title and secured tax claims the rate shall be determined under applicable nonbankruptcy law.

''(2) In the case of unsecured claims for taxes arising before the date of the order for relief and paid under a plan of reorganization, the minimum rate of interest to be applied during the period after the filing of the petition shall be the Federal short-term rate rounded to the nearest full percent, determined under section 1274(d) of the Internal Revenue Code of 1986, for the calendar month in which the plan is confirmed, plus 3 percentage points.''.

SEC. 506. TOLLING OF PRIORITY OF TAX CLAIM TIME PERIODS.

Section 507(a)(9)(A) of title 11, United States Code, as so redesignated, is amended—

(1) in clause (i) by inserting after ''petition'' and before the semicolon '', plus any time, plus 6 months, during which the stay of proceedings was in effect in a prior case under this title''; and

(2) amend clause (ii) to read as follows:

''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

''(I) any time plus 30 days during which an offer in compromise with respect of such tax, was pending or in effect during such 240-day period;

''(II) any time plus 30 days during which an installment agreement with respect of such tax was pending or in effect during such 240-day period, up to 1 year; and

''(III) any time plus 6 months during which a stay of proceedings against collections was in effect in a prior case under this title during such 240-day period.''.

SEC. 507. ASSESSMENT DEFINED.

(a) ASSESSMENT DEFINED FOR PRIORITY PURPOSES.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (2) the following:

''(3) 'assessment'—

''(A) for purposes of State and local taxes, means that point in time when all actions required have been taken so that thereafter a taxing authority may commence an action to collect the tax, and

''(B) for Federal tax purposes has the meaning given such term in the Internal Revenue Code of 1986;

and 'assessed' and 'assessable' shall be interpreted in light of the definition of assessment in this paragraph;''.

(b) ASSESSMENT DEFINED FOR THE STAY OF PROCEEDINGS.—Section 362(b)(9)(D) of title 11, United States Code, is amended by inserting after ''the making of an assessment'' the following: ''as defined by applicable nonbankruptcy law notwithstanding the definition of an 'assessment' elsewhere in this title''.

SEC. 508. CHAPTER 13 DISCHARGE OF FRAUDULENT AND OTHER TAXES.

Section 1328(a)(2) of title 11, United States Code, is amended by inserting ''(1),'' after ''paragraph''.

SEC. 509. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.

Section 1141(d) of title 11, United States Code, as amended by section 119A, is amended by adding at the end the following:

''(6) Notwithstanding the provisions of paragraph (1), the confirmation of a plan does not discharge a debtor which is a corporation from any debt for a tax or customs duty with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax.''.

SEC. 510. THE STAY OF TAX PROCEEDINGS.

(a) THE SECTION 362 STAY LIMITED TO PREPETITION TAXES.—Section 362(a)(8) of title 11, United States Code, is amended by striking the period at the end and inserting '', in respect of a tax liability for a taxable period ending before the order for relief.''.

(b) THE APPEAL OF TAX COURT DECISIONS PERMITTED.—Section 362(b)(9) of title 11, United States Code, is amended—

(1) in subparagraph (C) by striking ''or'' at the end,

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

(3) by adding at the end the following:

''(E) the appeal of a decision by a court or administrative tribunal which determines a tax liability of the debtor without regard to whether such determination was made prepetition or postpetition.''.

SEC. 511. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B) by striking ''and'' at the end; and

(2) in subparagraph (C)—

(A) by striking ''deferred cash payments, over a period not exceeding six years after the date of assessment of such claim,'' and inserting ''regular installment payments in cash, but in no case with a balloon provision, and no more than three months apart, beginning no later than the effective date of the plan and ending on the earlier of five years after the petition date or the last date payments are to be made under the plan to unsecured creditors,'';

(B) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would be described in section 507(a)(8) of this title but for its secured status, the holder of such claim will receive on account of such claim cash payments of not less than is required in subparagraph (C) and over a period no greater than is required in such subparagraph.''.

SEC. 512. THE AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by striking the semicolon at the end and inserting '', except where such purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986 or similar provision of State or local law;''.

SEC. 513. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Any''; and

(2) by adding at the end the following:

''(b) Such taxes shall be paid when due in the conduct of such business unless—

''(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable time after the lien attaches, by the trustee of a bankruptcy estate, pursuant to section 554 of title 11; or

''(2) payment of the tax is excused under a specific provision of title 11.

''(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11 if—

''(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

''(2) before the due date of the tax, the court has made a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as such tax.''.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B) of title 11, United States Code, is amended in clause (i) by inserting after ''estate,'' and before ''except'' the following: ''whether secured or unsecured, including property taxes for which liability is in rem only, in personam or both,''.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended by adding at the end the following:

''(D) notwithstanding the requirements of subsection (a) of this section, a governmental unit shall not be required to file a request for the payment of a claim described in subparagraph (B) or (C);''.

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b) by inserting ''or State statute'' after ''agreement''; and

(2) in subsection (c) by inserting '', including the payment of all ad valorem property taxes in respect of the property'' before the period at the end.

SEC. 514. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking ''before the date on which the trustee commences distribution under this section'' and inserting ''on or before the earlier of 10 days after the mailing to creditors of the summary of the trustee's final report or the date on which the trustee commences final distribution under this section''.

SEC. 515. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a)(1)(B) of title 11, United States Code, is amended—

(1) by inserting ''or equivalent report or notice,'' after ''a return,'';

(2) in clause (i)—

(A) by inserting ''or given'' after ''filed''; and

(B) by striking ''or'' at the end;

(3) in clause (ii)—

(A) by inserting ''or given'' after ''filed'';

(B) by inserting '', report, or notice'' after ''return''; and

(4) by adding at the end the following:

''(iii) for purposes of this subsection, a return—

''(I) must satisfy the requirements of applicable nonbankruptcy law, and includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or similar State or local law, and

''(II) must have been filed in a manner permitted by applicable nonbankruptcy law; or''.

SEC. 516. THE DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b) of title 11, United States Code, is amended in the second sentence by inserting ''the estate,'' after ''misrepresentation,''.

SEC. 517. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by section 146, is amended—

(1) in paragraph (6) by striking ''and'' at the end;

(2) in paragraph (7) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(8) if the debtor has filed all Federal, State, and local tax returns as required by section 1308 of this title.''.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—(1) Chapter 13 of title 11, United States Code, is amended by adding at the end the following:

''§ 1308. Filing of prepetition tax returns

''(a) On or before the day prior to the day on which the first meeting of the creditors is convened under section 341(a) of this title, the debtor shall have filed with appropriate tax authorities all tax returns for all taxable periods ending in the 6-year period ending on the date of filing of the petition.

''(b) If the tax returns required by subsection (a) have not been filed by the date on which the first meeting of creditors is convened under section 341(a) of this title, the trustee may continue such meeting for a reasonable period of time, to allow the debtor additional time to file any unfiled returns, but such additional time shall be no more than—

''(1) for returns that are past due as of the date of the filing of the petition, 120 days from such date,

''(2) for returns which are not past due as of the date of the filing of the petition, the later of 120 days from such date or the due date for such returns under the last automatic extension of time for filing such returns to which the debtor is entitled, and for which request has been timely made, according to applicable nonbankruptcy law, and

''(3) upon notice and hearing, and order entered before the lapse of any deadline fixed according to this subsection, where the debtor demonstrates, by clear and convincing evidence, that the failure to file the returns as required is because of circumstances beyond the control of the debtor, the court may extend the deadlines set by the trustee as provided in this subsection for—

''(A) a period of no more than 30 days for returns described in paragraph (1) of this subsection, and

''(B) for no more than the period of time ending on the applicable extended due date for the returns described in paragraph (2).

''(c) For purposes of this section only, a return includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986 or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal.''.

(2) The table of sections of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

''1308. Filing of prepetition tax returns.''.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and

(2) by inserting after subsection (d) the following:

''(e) Upon the failure of the debtor to file tax returns under section 1308 of this title, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interests of creditors and the estate.''.

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by striking the period at the end and inserting '', and except that in a case under chapter 13 of this title, a claim of a governmental unit for a tax in respect of a return filed under section 1308 of this title shall be timely if it is filed on or before 60 days after such return or returns were filed as required.''.

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference should, within a reasonable period of time after the date of the enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, a governmental unit may object to the confirmation of a plan on or before 60 days after the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax in respect of a return required to be filed under such section 1308 shall be filed until such return has been filed as required.

SEC. 518. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a) of title 11, United States Code, is amended in paragraph (1)—

(1) by inserting after ''records,'' the following: ''including a full discussion of the potential material Federal, State, and local tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor domiciled in the State in which the debtor resides or has its principal place of business typical of the holders of claims or interests in the case,'',

(2) by inserting ''such'' after ''enable'', and

(3) by striking ''reasonable'' where it appears after ''hypothetical'' and by striking ''typical of holders of claims or interests'' after ''investor''.

SEC. 519. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 130, 146, and 150 is amended—

(1) in paragraph (21) by striking ''or'',

(2) in paragraph (22) by striking the period at the end and inserting ''; or'', and

(3) by inserting after paragraph (22) (as so redesignated) the following:

''(23) under subsection (a) of the setoff of an income tax refund, by a governmental unit, in respect of a taxable period which ended before the order for relief against an income tax liability for a taxable period which also ended before the order for relief, unless—

''(A) prior to such setoff, an action to determine the amount or legality of such tax liability under section 505(a) was commenced; or

''(B) where the setoff of an income tax refund is not permitted because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action.''.

TITLE VI—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 601. AMENDMENT TO ADD A CHAPTER 6 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 5 the following:

''CHAPTER 6—ANCILLARY AND OTHER CROSS-BORDER CASES

''§ 601. Purpose and scope of application

''(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

''(1) cooperation between—

''(A) United States courts, United States Trustees, trustees, examiners, debtors, and debtors in possession; and

''(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

''(2) greater legal certainty for trade and investment;

''(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

''(4) protection and maximization of the value of the debtor's assets; and

''(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

''(b) This chapter applies where—

''(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

''(2) assistance is sought in a foreign country in connection with a case under this title;

''(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

''(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

''(c) This chapter does not apply to—

''(1) a proceeding concerning an entity identified by exclusion in subsection 109(b); or

''(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in under section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States.

''SUBCHAPTER I—GENERAL PROVISIONS

''§ 602. Definitions

''For the purposes of this chapter, the term—

''(1) 'debtor' means an entity that is the subject of a foreign proceeding;

''(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

''(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

''(4) 'foreign main proceeding' means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

''(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

''(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapters 9 or 13 of this title; and

''(7) 'within the territorial jurisdiction of the United States' when used with reference to property of a debtor refers to tangible property located within the territory of the United States and intangible property deemed under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

''§ 603. International obligations of the United States

''To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with 1 or more other countries, the requirements of the treaty or agreement prevail.

''§ 604. Commencement of ancillary case

''A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 615.

''§ 605. Authorization to act in a foreign country

''A trustee or another entity (including an examiner) authorized by the court may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

''§ 606. Public policy exception

''Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

''§ 607. Additional assistance

''(a) Nothing in this chapter limits the power of the court, upon recognition of a foreign proceeding, to provide additional assistance to a foreign representative under this title or under other laws of the United States.

''(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

''(1) just treatment of all holders of claims against or interests in the debtor's property;

''(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

''(3) prevention of preferential or fraudulent dispositions of property of the debtor;

''(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

''(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

''§ 608. Interpretation

''In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

''§ 609. Right of direct access

''(a) A foreign representative is entitled to commence a case under section 604 by filing a petition for recognition under section 615, and upon recognition, to apply directly to other Federal and State courts for appropriate relief in those courts.

''(b) Upon recognition, and subject to section 610, a foreign representative has the capacity to sue and be sued, and shall be subject to the laws of the United States of general applicability.

''(c) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign proceeding in any State or Federal court in the United States. Any request for comity or cooperation in any court shall be accompanied by a sworn statement setting forth whether recognition under section 615 has been sought and the status of any such petition.

''(d) Upon denial of recognition under this chapter, the court may issue appropriate orders necessary to prevent an attempt to obtain comity or cooperation from courts in the United States without such recognition.

''§ 610. Limited jurisdiction

''The sole fact that a foreign representative files a petition under sections 615 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

''§ 611. Commencement of case under section 301 or 303

''(a) Upon filing a petition for recognition, a foreign representative may commence—

''(1) an involuntary case under section 303; or

''(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

''(b) The petition commencing a case under subsection (a) of this section must be accompanied by a statement describing the petition for recognition and its current status. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) of this section prior to such commencement.

''(c) A case under subsection (a) shall be dismissed unless recognition is granted.

''§ 612. Participation of a foreign representative in a case under this title

''Upon recognition of a foreign proceeding, the foreign representative in that proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

''§ 613. Access of foreign creditors to a case under this title

''(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

''(b)(1) Subsection (a) of this section does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) of this section and paragraph (1) of this subsection do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

''(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

''§ 614. Notification to foreign creditors concerning a case under this title

''(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

''(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other similar formality is required.

''(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

''(1) indicate the time period for filing proofs of claim and specify the place for their filing;

''(2) indicate whether secured creditors need to file their proofs of claim; and

''(3) contain any other information required to be included in such a notification to creditors pursuant to this title and the orders of the court.

''(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

''§ 615. Application for recognition of a foreign proceeding

''(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

''(b) A petition for recognition shall be accompanied by—

''(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

''(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

''(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

''(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

''(d) The documents referred to in paragraphs (1) and (2) of subsection (b) must be translated into English. The court may require a translation into English of additional documents.

''§ 616. Presumptions concerning recognition

''(a) If the decision or certificate referred to in section 615(b) indicates that the foreign proceeding is a foreign proceeding within the meaning of section 101(23) and that the person or body is a foreign representative within the meaning of

section 101(24), the court is entitled to so presume.

''(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether or not they have been legalized.

''(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

''§ 617. Order recognizing a foreign proceeding

''(a) Subject to section 606, an order recognizing a foreign proceeding shall be entered if—

''(1) the foreign proceeding is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 602;

''(2) the foreign representative applying for recognition is a person or body within the meaning of section 101(24); and

''(3) the petition meets the requirements of section 615.

''(b) The foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

''(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 602 in the foreign country where the proceeding is pending.

''(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding shall constitute recognition under this chapter.

''(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the granting of recognition. The case under this chapter may be closed in the manner prescribed for a case under section 350.

''§ 618. Subsequent information

''From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

''(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

''§ 619. Relief that may be granted upon petition for recognition of a foreign proceeding

''(a) From the time of filing a petition for recognition until the petition is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 621(a).

''(b) Unless extended under section 621(a)(6), the relief granted under this section terminates when the petition for recognition is decided upon.

''(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

''§ 620. Effects of recognition of a foreign main proceeding

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) section 362 applies with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States; and

''(2) transfer, encumbrance, or any other disposition of an interest of the debtor in property within the territorial jurisdiction of the United States is restrained as and to the extent that is provided for property of an estate under sections 363, 549, and 552.

Unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the powers of a trustee under section 549, subject to sections 363 and 552.

''(b) The scope, and the modification or termination, of the stay and restraints referred to in subsection (a) of this section are subject to the exceptions and limitations provided in subsections (b), (c), and (d) of section 362, subsections (b) and (c) of section 363, and sections 552, 555 through 557, 559, and 560.

''(c) Subsection (a) of this section does not affect the right to commence individual actions or proceedings in a foreign country to the extent necessary to preserve a claim against the debtor.

''(d) Subsection (a) of this section does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

''§ 621. Relief that may be granted upon recognition of a foreign proceeding

''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 620(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 620(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 620(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 619(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''§ 622. Protection of creditors and other interested persons

''(a) In granting or denying relief under section 619 or 621, or in modifying or terminating relief under subsection (c) of this section, the court must find that the interests of the creditors and other interested persons or entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 619 or 621 to conditions it considers appropriate.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 619 or 621, or at its own motion, modify or terminate such relief.

''§ 623. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a pending case under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) of this section relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

''§ 624. Intervention by a foreign representative

''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

''§ 625. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) In all matters included within section 601, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

''§ 626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

''(a) In all matters included in section 601, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

''(b) The trustee or other person, including an examiner, designated by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

''(c) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

''§ 627. Forms of cooperation

''Cooperation referred to in sections 625 and 626 may be implemented by any appropriate means, including—

''(1) appointment of a person or body, including an examiner, to act at the direction of the court;

''(2) communication of information by any means considered appropriate by the court;

''(3) coordination of the administration and supervision of the debtor's assets and affairs;

''(4) approval or implementation of agreements concerning the coordination of proceedings; and

''(5) coordination of concurrent proceedings regarding the same debtor.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

''§ 628. Commencement of a case under this title after recognition of a foreign main proceeding

''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of that case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 625, 626, and 627, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

''§ 629. Coordination of a case under this title and a foreign proceeding

''Where a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

''(1) When the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

''(A) any relief granted under sections 619 or 621 must be consistent with the case in the United States; and

''(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 620 does not apply.

''(2) When a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

''(A) any relief in effect under sections 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

''(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 620(a) shall be modified or terminated if inconsistent with the case in the United States.

''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(4) In achieving cooperation and coordination under sections 628 and 629, the court may grant any of the relief authorized under section 305.

''§ 630. Coordination of more than 1 foreign proceeding

''In matters referred to in section 601, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

''(1) Any relief granted under section 619 or 621 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

''(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

''(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

''§ 631. Presumption of insolvency based on recognition of a foreign main proceeding

''In the absence of evidence to the contrary, recognition of a foreign main proceeding is for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts.

''§ 632. Rule of payment in concurrent proceedings

''Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 5 the following:

''6. Ancillary and Other Cross-Border Cases ..... 601''.

SEC. 602. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11, UNITED STATES CODE.

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ''and this chapter, sections 307, 555 through 557, 559, and 560 apply in a case under chapter 6''; and

(2) by adding at the end the following:

''(j) Chapter 6 applies only in a case under that chapter, except that section 605 applies to trustees and to any other entity authorized by the court, including an examiner, under chapters 7, 11, and 12, to debtors in possession under chapters 11 and 12, and to debtors or trustees under chapters 9 and 13 who are authorized to act under section 605.''.

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

''(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign state, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

''(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;''.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking ''and'' at the end;

(B) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(P) recognition of foreign proceedings and other matters under chapter 6 of title 11.''.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c)(1) of title 28, United States Code, is amended by striking ''Nothing in'' and inserting ''Except with respect to a case under chapter 6 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting ''6,'' after ''chapter''.

TITLE VII—MISCELLANEOUS

SEC. 701. TECHNICAL AMENDMENTS.

Title 11 of the United States Code is amended—

(1) in section 109(b)(2) by striking ''subsection (c) or (d) of'';

(2) in section 541(b)(4) by adding ''or'' at the end; and

(3) in section 552(b)(1) by striking ''product'' each place it appears and inserting ''products''.

SEC. 702. APPLICATION OF AMENDMENTS.

The amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code after the date of the enactment of this Act.

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 103–573.

AMENDMENT NO. 1 OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, pursuant to the rule, I offer the Hyde amendment, the so-called manager's amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 printed in House Report 105–573 offered by Mr. GEKAS:

Page 6, line 8, strike ''spouse'' and insert ''spouse,''.

Page 8, line 13, insert '', issued by the Internal Revenue Service,'' after ''debts)''.

Page 8, line 16, strike ''under'' and insert ''by''.

Page 8, beginning on line 16, strike ''financial analysis for expenses'' and insert ''allowance for such expenses''.

Page 9, line 10, insert ''total'' after ''monthly''.

Page 9, line 20, insert ''total'' after ''monthly''.

Page 9, line 21, strike ''what income'' and insert ''any income that''.

Page 12, line 15, insert ''CHAPTER 13'' after ''A'' (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Page 13, line 1, insert '', issued by the Internal Revenue Service,'' after ''debts)''.

Page 13, line 4, strike ''under'' and insert ''by''.

Page 13, beginning on line 5, strike ''financial analysis for expenses'' and insert ''allowance for such expenses''.

Page 13, line 15, strike ''of'' and insert ''under''.

Page 13, line 22, strike ''of'' and insert ''under''.

Page 14, line 3, insert ''and'' at the end.

Page 14, beginning on line 14, strike '', in a case in which a trustee has been appointed,''.

Page 14, beginning on line 21, strike ''what income'' and inserting ''any income that''.

Page 18, line 1, strike ''total current monthly'' and insert ''current monthly total''.

Page 18, beginning on line 7, strike ''total current monthly'' and insert ''current monthly total''.

Page 20, line 24, strike ''and'' at the end and insert a comma.

Page 21, line 1, strike ''its schedules'' and insert ''schedules,''.

Page 21, beginning on line 3, strike ''and its schedules'' and insert ''schedules,''.

Page 22, beginning on line 6, strike ''outside'' and all that follows through ''system)'' on line 7.

Page 24, line 21, insert ''by the debtor'' after ''statement''.

Page 25, after line 6, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 105. WHO MAY BE A DEBTOR UNDER CHAPTER 11.

Section 109(d) of title 11, United States Code, is amended by inserting '', or a person described in subsection (b)(4)),'' after ''chapter 7''.

Page 25, line 19, strike ''12'' and insert ''12,''.

Page 26, line 3, strike ''(i)'' and insert ''(i)(I)''.

Page 26, line 5, strike ''(ii)'' and insert ''(II)''.

Page 26, line 6, strike the period at the end and insert ''; and''.

Page 26, after line 6, insert the following:

''(ii) that offers its services to debtors without charge, or at an appropriately reduced charge if payment of any regular charge would impose a hardship on the debtor or a dependent of the debtor.''

Page 26, line 10, insert ''or on the motion of the United States trustee and'' after ''district''.

Page 26, beginning on line 11, strike ''the United States trustee and''.

Page 27, line 21, strike ''60'' and insert ''180''.

Page 33, line 22, strike ''select a chapter 7 proceeding'' and insert ''choose to file a chapter 7 case''.

Page 34, line 1, strike ''select a chapter 13 proceeding'' and insert ''choose to file a chapter 13 case''.

Page 34, line 6, strike ''proceeding'' and insert ''relief''.

Page 34, line 9, strike ''proceeding'' and insert ''relief''.

Page 34, line 10, strike ''procceding'' and insert ''case''.

Page 34, beginning on line 13, strike ''represent you in litigation'' and insert ''give you legal advice''.

Page 34, line 21, insert '', to the extent permitted by nonbankruptcy law,''.

Page 38, line 4, strike ''or'' and insert ''and''.

Page 41, after line 12, insert the following:

''(5) Notwithstanding any other provision of Federal law, if the court, on its own motion or on the motion of the United States trustee, finds that a person intentionally violated section 526 or 527 of this title, or engaged in a clear and consistent pattern or practice of violating section 526 or 527 of this title, the court may—

''(A) enjoin the violation of such section; or

''(B) impose an appropriate civil penalty against such person.''.

Page 43, line 17, insert '', together with any other such contribution,'' after ''contribution''.

Page 46, line 12, strike ''2002bb'' and insert ''2000bb''.

Page 49, beginning on line 8, strike ''If a party in interest requests'' and insert ''Upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing''.

Page 55, line 9, strike ''reaffirmation''.

Page 56, line 1, insert ''THE AUTOMATIC'' after ''FROM'' (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Page 59, line 7, insert ''THE AUTOMATIC'' after ''FROM'' (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Page 59, line 20, insert ''as described in findings made by the court'' after ''circumstances''.

Page 60, line 12, strike ''cases'' and insert ''a case''.

Page 64, line 3, strike ''case''.

Page 66, line 19, insert '', excluding debts incurred for necessaries that do not exceed $250 in the aggregate,'' after ''creditor''.

Page 66, beginning on line 22, strike '', except'' and all that follows through ''less'' on line 25.

Page 67, line 23, strike ''or divorce or dissolution decree'' and insert ''divorce decree, or other order of a court of record''.

Page 68, strike lines 8 through 23 (and make such technical and conforming changes as may be appropriate).

Page 74, strike lines 13 through 15, and insert the following:

(2) in subsection (a)(7) by inserting ''an order of disgorgement or restitution obtained by a governmental unit,'' after ''such debt is for''; and

Page 75, line 20, strike ''the''.

Page 76, line 14, strike ''(14)'' and insert ''(19)''.

Page 76, in the matter after line 21, insert ''payments after discharge'' after ''alimony''.

Page 78, after line 2, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 152. HIGHER PRIORITY FOR DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) in paragraph (6) by striking ''(6) Sixth'' and inserting ''(7) Seventh'';

(3) in paragraph (5) by striking ''(5) Fifth'' and inserting ''(6) Sixth'';

(4) in paragraph (4) by striking ''(4) Fourth'' and inserting ''(5) Fifth'';

(5) in paragraph (3) by striking ''(3) Third'' and inserting ''(4) Fourth''; and

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

''(3) Third, allowed claims for debts to a spouse, former spouse, or child of the debtor for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

''(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

''(B) includes a liability designed as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance, or support.''.

Page 83, strike lines 17 through 19, and insert the following:

apply to—

''(A) an exemption claimed under subsection (b)(2)(A) by a family farmer for the principal residence of that farmer; or

''(B) an involuntary case.''.

Page 84, strike lines 8 through 10, and insert the following:

''(e) A person appointed to examine a request for compensation or reimbursement payable under this section may not be paid on the basis of the amount of any reduction recommended by such person in the amount or rate of such compensation or such reimbursement.''.

Page 85, line 16, strike ''(3)'' and insert ''(3)(A)''.

Page 85, line 16, insert '', subject to subparagraph (B),'' after ''or''.

Page 85, line 20, strike the close quotation marks and the period at the end.

Page 85, after line 20, insert the following:

''(B) A request to change the membership of a committee appointed under subsection (a) may be made under subparagraph (A) by a party in interest only after such request is submitted to and denied by the United States trustee.''.

Beginning on page 90, strike line 24 and all that follows through line 10 on page 91, and insert the following:

''(5) Where the court finds that a personal services contract is property of the estate, the trustee may not reject an executory contract for personal services in which advances are paid for the creation of copyrighted sound recordings in the future if a material purpose for commencing a case under this title is to reject such contract, unless, absent such rejection, economic rehabilitation of the debtor's finances, including such contract, cannot be achieved.''.

Page 91, beginning on line 24, strike ''debtor's motion'' and insert ''motion of the trustee''.

Page 92, line 4, insert ''the'' after ''provided''.

Page 92, after line 24, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 215. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A) by striking the semicolon at the end and inserting the following:

''other than a default that is a breach of a provision relating to—

''(i) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption; or

''(ii) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an executory contract, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption and if the court determines, based on the equities of the case, that this subparagraph should not apply with respect to such default;'', and

(B) by amending paragraph (2)(D) to read as follows:

''(D) the satisfaction of any penalty rate or penalty provision relating to a default arising from a failure to perform nonmonetary obligations under an executory contract or under an unexpired lease of real or personal property.'',

(2) in subsection (c)—

(A) in paragraph (2) by adding ''or'' at the end,

(B) in paragraph (3) by striking ''; or'' at the end and inserting a period, and

(C) by striking paragraph (4),

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9), and

(B) by redesignating paragraph (10) as paragraph(5).

(4) in subsection (f)(1) by striking ''; except that'' and all that follows through the end of the paragraph and inserting a period.

(b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by inserting ''or of a kind that section 365(b)(1)(A) of this title expressly does not require to be cured'' before the semicolon at the end,

(2) in subparagraph (C) by striking ''and'' at the end,

(3) by redesignating subparagraph (D) as subparagraph (E), and

(4) by inserting after subparagraph (C) the following:

''(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and''.

Page 95, beginning on line 14, strike ''STATEMENTS AND PLANS'' and insert ''STATEMENT AND PLAN'' (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Beginning on page 97, strike line 17 and all that follows through line 6 on page 98, and insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 235. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance between—

(1) the reasonable needs of the bankruptcy court, the United States trustee or bankruptcy administrator, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand its financial condition and plan its future.

Page 103, line 22, insert ''and'' at the end.

Page 104, strike lines 3 through 6, and insert the following:

''(9) in cases in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly to the court for relief.''.

Page 105, line 15, strike ''()'' and insert ''(j)''.

Page 106, line 5, strike ''(C) un-'' and insert ''(C);''.

Page 106, strike lines 6 through 12, and insert the following:

unless the debtor proves, by a preponderance of the evidence, that the filing of such petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and that it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable time.''.

Page 108, line 24, strike '', and'' and all that follows through line 2 on page 109, and insert a semicolon.

Page 112, after line 6, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 302. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901 of title 11, United States Code, is amended—

(1) by inserting ''555, 556,'' after ''553,''; and

(2) by inserting ''559, 560,'' after ''557,''.

Page 125, line 8, strike ''total current monthly'' and insert ''current monthly total''.

Page 125, line 17, strike ''total current monthly'' and insert ''current monthly total''.

Page 126, beginning on line 11, strike ''total current monthly'' and insert ''current monthly total''.

Page 126, line 18, strike ''total current monthly'' and insert ''current monthly total''.

Page 131, line 3, strike ''or dismissed'' and insert '', dismissed, or closed''.

Page 131, beginning on line 17, strike ''Such'' and all that follows through ''Courts.'' on line 19.

Page 131, line 20, insert ''in such form as shall be determined by such Office, in consultation with the Administrative Office of the United States Courts,'' after ''tics,''.

Page 131, line 19, strike ''Office'' and insert ''Executive Office for United States Trustees''.

Page 132, line 5, strike ''total current monthly'' and insert ''current monthly total''.

Page 133, line 16, insert ''UNIFORM RULES FOR THE COLLECTION OF'' after ''SEC. 442.'' (and make such technical and conforming changes to the table of contents of the bill as may be appropriate).

Page 140, strike lines 6 through 10, and insert the following:

amended to read as follows:

''(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) of this title, and such property shall be liable for a debt of a kind specified in such paragraph (5) notwithstanding any State law to the contrary;''

Page 161, line 16, strike ''or'' at the end.

Page 161, line 21, strike the period at the end and insert ''; or''.

Page 161, after line 21, insert the following:

''(3) an entity subject to a proceeding under the Securities Investor Protection Act, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

Page 164, line 2, strike ''Nothing in this chapter limits the power of'' and insert ''Subject to the specific limitations stated elsewhere in this chapter''.

Page 165, after line 15, insert the following:

''(c) Subject to section 610 of this title, a foreign representative is subject to laws of general application.

Page 165, line 16, strike ''(c)'' and insert ''(d)''.

Page 165, beginning on line 17, strike ''proceeding'' and insert ''representative''.

Page 165, line 19, insert ''by a foreign representative'' after ''cooperation''.

Page 166. line 5, strike ''sections'' and insert ''section''.

Page 166, line 10, strike ''filing a petition for''.

Page 166, strike lines 22 and 23.

Page 170, line 24, insert ''after notice and a hearing'' after ''606,''.

Page 177, strike lines 11 through 17, and insert the following:

''(a) The court may grant relief under section 619 or 621, or may modify or terminate relief under subsection (c) of this section, only if the interests of the creditors and other interested persons or entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 619 or 621, or the operation of the debtor's business under section 620(a)(2) of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

Page 177, after line 21, insert the following:

''(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

Page 178, line 19, strike ''In all matters included within'' and insert ''Consistent with''.

Page 179, line 6, strike ''In all matters included within'' and insert ''Consistent with''.

Page 179, line 12, strike ''designated'' and insert ''authorized''.

Page 179, strike lines 15 through 18.

Page 181, line 8, insert ''the relief granted in'' after ''with''.

Page 181, line 24, insert ''the relief granted in'' after ''with''.

Page 186, line 11, strike ''The'' and insert ''Except as otherwise provided in this Act, the''.

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Pennsylvania (Mr. GEKAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have consulted with the gentleman from New York on the purport of the manager's amendment. It has several technical amendments that need attention and to which we have agreed, and it puts into the RECORD the concerns that the Justice Department has voiced with respect to some of the provisions. We have incorporated those into the manager's amendment, and made those known to the gentleman from New York and the minority.

On that, then, we would ask for a vote on the manager's amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from New York (Mr. NADLER) seek time in opposition?

Mr. NADLER. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman from New York (Mr. NADLER) is recognized for 5 minutes.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we do not object to this amendment. I just want to point out that, like a number of other amendments, this amendment deals with the problem of child support and spouse support, but does not deal adequately with it.

This amendment would raise the priority of support, child and spouse support, above several priorities. It would raise it above several existing priorities that are rarely relevant in consumer cases. It would make it have a higher priority than wages owed by the debtor to people, to workers he did not pay, and payments involving grain elevators and fishermen.

It does not change the Chapter 13 payment formula, which still requires payment of credit card debt concurrently with child support. It does not deal with the larger problems created by other provisions of the bill that require payments so great that a Chapter 13 plan may be rendered infeasible.

It also does not deal with ''adequate protection payments'' required by Section 320 of the bill that would compete with support at the outset of the plan,

so that the debtor could not devote significant funds to payment of even the first priority support claims.

If such adequate protection payments failed to provide adequate protection, in fact, a creditor, such as a credit card creditor, who took a security interest in minor household items could argue it was entitled to a still higher superpriority under section 507(b).

So in other words, Mr. Chairman, there is nothing wrong with this amendment. It goes a fiftieth of the way towards helping the terrible problems this bill puts in the way of adequately collecting child and spouse support, but it does not deal with the basic problems. So while we have no objection to it and we certainly would not ask for a recorded vote, it does not do very much at all.

Mr. Chairman, I yield back the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. Gekas).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 105–573.

AMENDMENT NO. 2 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer amendment No. 2.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment 2 printed in House Report 105–573 offered by Mr. NADLER:

Page 13, strike line 23 and insert the following:

plan; and

''(D) if the debtor is engaged in business, the payment of expenditures necessary for the continuation, preservation, and operation of such business;'';

Beginning on page 93, strike line 5 and all that follows through line 2 on page 94, and insert the following:

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

(1) by redesignating paragraph (51C) as paragraph (51D); and

(2) by inserting after paragraph (51B) the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor;''.

Beginning on page 98, strike line 7 and all that follows through the matter preceding line 15 on page 100 (and make such technical and conforming changes as may be appropriate).

Beginning on page 100, strike line 15 and all that follows through line 11 on page 104 (and make such technical and conforming changes as may be appropriate).

Beginning on page 105, strike line 1 and all that follows through line 12 on page 106 (and make such technical and conforming changes as may be appropriate).

Beginning on page 106, strike line 13 and all that follows through line 16 on page 109, and insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 243. ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE.

Section 1104(a) of title 11, United States Code,

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

Mr. NADLER. Mr. Chairman, this amendment strikes several sections of the small business title. We have heard testimony from the National Bankruptcy Conference, and we also have received a letter from the Small Business Administration that indicates that the bureaucratic burdens placed by this bill on small businesses, the short time lines for filing many more documents than are necessary for larger businesses, the higher standard for getting an extension of the automatic stay so that the small business, in order to get an extension, would have to pass what amounts to a mini-confirmation hearing, a real catch-22, and the inclusion of a new definition of single-asset real estate in the definition of small business, so that, for example, Rockefeller Center would have to be reorganized under the small business rules if it were involved in a bankruptcy, all combine to make this title a virtual death sentence for thousands of small businesses.

I know my colleagues on the other side of the aisle like to oppose regulations that protect the environment or worker safety by arguing they are burdensome on small businesses. We have had several hearings this year attacking clean air regulations and attacking regulations to keep workers from falling off of roofs, and regulations to keep asbestos from being released into the atmosphere.

At every point we have heard moving speeches about the fate of small businesses under these regulations. Some members of the committee have opposed increasing our shamefully low minimum wage for the same reasons.

Here is a chance to put our words into action. This small business title threatens every small business and independent contractor in America. We should strike its most offending sections. The amendment restores the current definition of small business to a business of $2 million. The increase to $5 million would pull in 85 percent of businesses into this section, and make it involuntary. It will be transforming small business bankruptcy from a safety net for small businesses to a tiger cage.

The amendment strikes the burdensome and costly meeting and filing requirements imposed on small businesses for the first time, and it also gets the U.S. Trustee out of the business of essentially running a small business in Chapter 11. It strikes the definition of monthly net income in the bill, and restores the existing definition so that an individual debtor in Chapter 13 may continue to use his or her personal income for a small business.

As we may know, many small businesses are either unincorporated or are small businesses which the debtor personally guarantees. They end up in Chapter 13, not Chapter 11. The bill as written would not allow them to use their personal resources to reorganize the business, as current law does. This change would kill many small businesses.

Finally, the amendment restores current law in the appointing of a trustee.

Mr. Chairman, small business is the engine for job growth in America. There is not a single Member of this House who has not spoken out in defense of small business. That is the right thing to do. But we should not move forward with these costly, onerous, and burdensome new rules that the Small Business Administration and the National Bankruptcy Conference tell us will kill many small businesses unnecessarily, instead of letting them be reorganized. We ought to pass this amendment so as not to impose these new burdens and this death sentence on thousands of small businesses.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. GEKAS) seek time in opposition?

Mr. GEKAS. I rise in opposition to the amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 5 minutes.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in this particular case the gentleman from New York (Mr. NADLER) full well knows that the recommendations of the bankruptcy commission, which worked 2 years on just this kind of provision, made certain recommendations in filing their report late last year.

It is those provisions, those recommendations, which we have incorporated into H.R. 3150, and which themselves have received the blessing of the NFIB, and other organizations, such as, and this is important, the National Federation of Independent Businesses, NFIB, which I mentioned; the American Bankruptcy Institute, the Executive Office for United States Trustees, and various bankruptcy judges.

But more importantly than that, the NFIB language that they employed in the letter of support to us says this, and this is a better speech than I could make, or any combination of Members could make:

''The legislation,'' and this is the NFIB speaking, the National Federation of Independent Business, ''The legislation strikes a fair balance by giving small business owners more of a chance to get back what is rightfully theirs while still providing bankruptcy protection to those small businesses who truly need it.''

I endorse the NFIB endorsement of the endorsed bill that we now endorse, and reendorse by asking for a negative vote on the proposal at hand.

Mr. Chairman, I reserve the balance of my time.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am surprised to hear the gentleman from Pennsylvania (Mr. GEKAS) point out that the National Bankruptcy Review Commission supports this. The National Bankruptcy Review Commission rejected the central concept of the bill, the so-called means-based testing. But that he does not care about.

Let me simply say this. The Small Business Administration of the United States says the provisions of this bill, without this amendment, would add

such substantial additional costs to the reorganization process that many small businesses may forgo reorganization under Chapter 11 and immediately file for Chapter 7 liquidation proceedings.

They would be forced to close their doors, leaving their creditors without recourse. The nonbipartisan and widely respected National Bankruptcy Conference says,

These cost-raising changes ultimately could deny tens of thousands of small businesses a meaningful opportunity to restructure that have obligations and continue in business. This would close the door on thousands of businesses that would have been able to reorganize successfully if given the chance.

The AFL-CIO says,

The potentially broad reach of these provisions and the manner in which they restrict the workings of the bankruptcy case for these businesses will likely place numerous jobs at risk.

So the AFL-CIO, the Small Business Administration, and the National Bankruptcy Conference, which is probably the greatest expert on this, all tell us these provisions which this amendment would strike will kill thousands of small businesses by denying them the realistic opportunity to reorganize, and forcing them instead to liquidate.

I urge my colleagues to vote for this amendment so these small businesses are not thrown into liquidation, instead of reorganization, killing thousands and thousands of jobs.

□ 1530

Mr. GEKAS. Mr. Chairman, I yield back the balance of my time in opposition to the amendment.

Mr. NADLER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. NADLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. NADLER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from New York (Mr. NADLER) will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 105–573. Does any Member seek recognition to offer amendment No. 3?

PARLIAMENTARY INQUIRIES

Mr. NADLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. NADLER. Mr. Chairman, which amendment are you referring to? The Boucher-Gekas amendment?

The CHAIRMAN. The Delahunt amendment No. 3.

Mr. NADLER. Mr. Chairman, we will come back to that.

The CHAIRMAN. According to the rule, amendment No. 3 is now in order to be offered by the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. NADLER. Mr. Chairman, I have a further parliamentary inquiry. On the list that I have, the Boucher-Gekas amendment is next, and then Gekas and then Shaw-Camp, Paul, Gekas-McCollum-Smith, Scott, Velázquez, Baldacci, and Delahunt is last according to this.

The CHAIRMAN. According to the rule adopted by the House, it is now in order to consider amendment No. 3 to be offered by the gentleman from Massachusetts (Mr. DELAHUNT) or his designee, debatable for 10 minutes.

Mr. NADLER. Mr. Chairman, I ask unanimous consent that that amendment be considered later when the gentleman from Massachusetts (Mr. DELAHUNT) can come to the floor, because the list we have does not indicate that order.

The CHAIRMAN. The Chair does not have the authority to entertain that request in the Committee of the Whole.

Mr. NADLER. Mr. Chairman, I believe that with unanimous consent, the Chair could entertain that request.

The CHAIRMAN. The Committee of the Whole cannot change the order of the amendments as approved under the special order adopted by the House.

Mr. GEKAS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GEKAS. Mr. Chairman, if the gentleman from Massachusetts (Mr. DELAHUNT), who was supposed to have an amendment made in order at this time, would strike the last word or change the text of the amendment that he wishes to offer, could it be made in order in the Committee of the Whole?

The CHAIRMAN. Permission cannot be sought to offer a new amendment. Permission might be sought to modify a pending amendment in the Committee of the Whole. But the Committee of the Whole is operating under the rule adopted earlier in the House.

If there is no Member here to offer amendment No. 3, the Committee will move on to amendment No. 4.

Mr. GEKAS. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GEKAS. Mr. Chairman, I wish to express to the gentleman from New York (Mr. NADLER) that when the time comes that the gentleman from Massachusetts (Mr. DELAHUNT) is prepared to proceed, we will coordinate whatever it takes, even a motion to rise, in order to accommodate that amendment. So at this point, why do we not proceed?

Mr. NADLER. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. NADLER. Mr. Chairman, I appreciate the cooperation of the gentleman from Pennsylvania (Mr. GEKAS). My parliamentary inquiry is if we go on to the next amendment now, and 10 or 15 or 20 minutes from now when the gentleman from Massachusetts arrives, if a motion to rise is made, we can then entertain that amendment in the House?

The CHAIRMAN. At a later time, if the Committee rises and then the gentleman seeks permission to offer the amendment, that request could be entertained in the full House.

Mr. NADLER. Mr. Chairman, I appreciate that offer from the distinguished gentleman from Pennsylvania, and I think it is a good idea, and we should go on to the next amendment now with the understanding that when the gentleman from Massachusetts arrives at the conclusion of the amendment that we are now discussing, that we move that the House rises.

The CHAIRMAN. It is now in order——

Mr. NADLER. Mr. Chairman, I am told that I need to move that the House rise now.

The CHAIRMAN. It does not have to be done now.

Mr. NADLER. Mr. Chairman, it is okay to go to the next amendment then, as far as I am concerned.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 105–573.

AMENDMENT NO. 4 OFFERED BY MR. BOUCHER.

Mr. BOUCHER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 printed in House Report 105–573 offered by Mr. BOUCHER:

Page 54, line 15, before the semicolon insert the following:

'', except that the term shall also include any tangible personal property reasonably

necessary for the maintenance and support of a dependent child''.

Page 66, strike lines 11 through 13 and insert the following:

''(19) incurred to pay a debt that is nondischargeable by reason of any other provision of this subsection or section 727, 1141, 1228(a), 1228(b), or 1328(b), except for any debt incurred to pay such a nondischargeable debt in any case in which—

''(A)(i) the debtor who paid the nondischargeable debt is a single custodial parent who has 1 or more dependent children at the time of the order for relief, or

''(ii) there is an allowed claim for alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor payable under a judicial or administrative order to such spouse or child (but not to any other person) which was unpaid as of the date of the petition; and

''(B) the creditor is unable to demonstrate that the debtor intentionally incurred the debt to pay the debt which is nondischargeable;''.

Page 70, after line 12, insert the following (and make such technical and conforming changes as may be appropriate):

(1) in the matter preceding paragraph (1) by inserting before the colon the following:

'', except that, notwithstanding any other provision of this title, any expense or claim entitled to priority under paragraph (7) shall have first priority over any other expense or claim that has priority under any other provision of this subsection'';

Page 70, after line 22, insert the following (and make such technical and conforming changes as may be appropriate):

(e) CONTENTS OF PLANS.—Section 1322(b)(1) of title 11, United States Code, is amended by striking the semicolon at the end and inserting the following:

''and provide for the payment of any claim entitled to priority under section 507(a)(7) of this title before the payment of any other claim entitled to priority under section 507(a), notwithstanding the priorities established under section 507(a);''.

The CHAIRMAN. Pursuant to the rule, the gentleman from Virginia (Mr. BOUCHER), and the gentleman from New York (Mr. NADLER) each will control 5 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment relates to the priority of child support and alimony recipients in association with bankruptcy proceedings.

During consideration of the bill in the House Judiciary Committee, provisions were adopted which not only assured no disadvantage from this reform for the recipient of alimony or the recipient of child support payments, but which in very significant respects improved that person's ability to receive child support and alimony payments in comparison to current law.

For example, the bill provides that unlike current law, Chapter 13 plans cannot be confirmed unless all child support payments due since the bankruptcy filing have been paid. The Chapter 13 plan cannot be discharged until all arrearages that were due prior to the filing have been paid as well.

These are very significant improvements with regard to current law for the condition of the child support and alimony recipient.

Another example: Under current law child support and alimony wage orders which require that an employer withhold from an employee's salary amounts that are due under child support or alimony are stayed when a bankruptcy petition is filed under any of the various chapters. The bill creates an exemption from this stay for wage orders and assures that payment of child support or alimony under them will continue.

A third example: Under current law the property which is exempt under State law which is owned by a spouse who owes child support or alimony may not be subjected to the other spouse's child support or alimony claim after the spouse who owns the property has been discharged in bankruptcy. The bill improves upon current law by subjecting that exempt property to the child support or alimony claim.

A fourth example: Under current law a debt one spouse owes to another that arises from something other than child support or alimony and is incorporated in a separation agreement or divorce decree is dischargeable in bankruptcy and may not be enforced against property that is exempt under State law. The bill says these debts owed to the spouse may never be discharged and may be enforced against exempt property.

In each of these four instances, the situation of the recipient of child support or alimony is improved with regard to current law.

The amendment that I am pleased to be offering now with the gentleman from Pennsylvania (Mr. GEKAS) makes four additional improvements in current law from the standpoint of the child support or alimony recipient.

First, we clearly give the child support or alimony recipient top priority to receive payment during the pendency of the bankruptcy proceeding. Today, she is seventh behind farmers who have claims against grain elevators, fishermen who have claims against wholesalers, and others. We, with this amendment, clearly make her the first priority.

The second change we make will require that child support and alimony be first in line for payment in Chapter 13 plans. That also is an improvement with respect to current law.

Third, we help the single parent who files for bankruptcy by expanding the definition of ''household goods'' to include items that are needed in child rearing. Unlike under current law, with this amendment she will be able to keep those items.

We also provide that nonsecured debt which is acquired to pay nondischargeable debt, such as taxes, is nondischargeable against single parents and debtors who owe child support or alimony only if the debt was acquired intentionally to pay nondischargeable debt.

In each of these four areas we are making improvements with regard to current law, better assuring the priority of the child support or alimony recipient.

And because of the changes made in the committee, the various organizations around the country numbering several that are responsible for aiding child support and alimony recipients and enforcing those obligations have endorsed this bill, including the Child Support and Family Council of California, the City of New York Law Department, and others.

Mr. Chairman, they understand that the changes that are made in the committee, as amplified by these changes on the floor, will actually improve the circumstance of the child support or alimony recipient as compared to current law.

Mr. Chairman, I urge the adoption of this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this, again, is another one of those amendments that may do a little good. It is probably harmless, but it does not solve any of the fundamental problems.

For instance, we are told that on the provision of this amendment regarding debts incurred to pay nondischargeable debts, it amends another of the provisions, creating large categories of new nondischargeable debts, mostly credit card debts.

This amendment, which purports to protect women and children dependent on support from the debtor, does nothing to change this provision of the bill. Besides being limited only to cases in which debtors are single parents or are in arrears on support, it simply requires the creditor to show that the debtor ''intentionally'' incurred the debt in question. Virtually no debts incurred to pay other debts are not incurred intentionally, so the change is meaningless.

Then we have the provision that states that alimony and support claims should be paid before other priority claims in Chapter 13. But this does not change the Chapter 13 payment formula, which still requires payment of nonpriority credit card debt concurrently with support. In other words, the requirement in section 102 that support be paid concurrently with credit card debts is not changed at all.

The amendment does not deal with the larger problems created by other provisions that required payments so great that a Chapter 13 plan may not be feasible, in which case no creditors may be paid.

This amendment makes a new section that places child support and alimony ahead of all other unsecured priority claims in the distribution of the assets in a Chapter 7 case. While this is a worthy idea, and I commend the author for this, it will have little effect since it is rare, very rare, for any assets at all to be distributed in a Chapter 7 case.

Also, because the amendment places child support and alimony ahead of administrative expenses, like the trustee's commission, we are going to have trustees abandoning these assets rather if there are not sufficient additional assets to compensate the trustee. The amendment, therefore, could cause, and in many cases would cause, women and children to receive even less support in some cases.

In summary, Mr. Chairman, as the administration has said in its letter that we received today, and as most of the organizations concerned with child support agree, this amendment, the manager's amendment, the amendments in committee do not really deal with the problem of child support collection.

Let me just add one comment, since the gentleman referred to the Law Department of my own city, the City of New York. The Law Department of the City of New York has one concern overriding everything else: collecting taxes. That is what they care about, not child support. So I do not credit what they say about how this will deal with child support. I know the Law Department of my own city only too well.

Mr. Chairman, I reserve the balance of my time.

Mr. BOUCHER. Mr. Chairman, I yield the balance of my time to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, since the gentleman from New York (Mr. NADLER) has chosen to cite the administration's statement of policy, let me quote it. ''If debtors truly have the ability to repay a portion of their debt, after taking into account all relevant factors, including child support and alimony payments, a successful, supervised repayment plan under Chapter 13 rules could result in a more reliable payment of child support and alimony than would the unsupervised situation after Chapter 7 discharge.''

□ 1545

That is the point of this bill. With the Boucher amendment this Statement of Administration Policy is, in effect, an endorsement of this bill, certainly as it relates to child support. I thank the administration for its good judgment. I would bring this to the attention of all the Members of this body.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

I am constrained to correct what the gentleman from Virginia said a moment ago. He quoted half a paragraph. What this paragraph says in the statement from the administration is, the formulaic approach in this bill, as currently written, could result in moving to Chapter 13 those debtors who are likely to fail to complete required repayment plans. These debtors would return to Chapter 7 with a diminished ability to repay their nondischarged debt, including child support and alimony. There are other approaches to limiting access to Chapter 7 that would not have this result.

And they are referring not to the needs-based approach of this bill but to the approach of the Democratic substitute.

Then it continues: If debtors truly have the ability to repay a portion of their debt after taking into account all the relevant factors, including child support and alimony payments, a successful, supervised repayment plan under Chapter 13 could result in a more reliable payment, et cetera.

They are talking about under a different system from this bill, under a system such as under the Democratic substitute that we will be offering a little later. Frankly, it is not accurate to refer only to the second half of the paragraph in saying that.

The fact remains that the administration and most of the women's groups, the NOW, the Children's Defense Fund, the American Association of University Women, the YWCA, they all oppose this bill because of the problem of child support. They all say that these amendments do not solve that problem.

Having said that, again, I will observe, this is not a terrible amendment. I do not think it does much good, but it does not do any harm. I will not ask for a vote against it. All I am saying is I do not think it solves any problems.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BOUCHER).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 105–573.

Does any Member wish to offer amendment No. 5?

It is now in order to consider amendment No. 6 printed in House Report 105–573.

AMENDMENT NO. 6 OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 printed in House Report 105–573 offered by Mr. SHAW:

Page 76, line 17, insert the following before the 1st period: except with respect to any property of the debtor acquired after the date of the filing of the petition. A creditor that receives a payment, or collects money or property, in satisfaction of all or part of any debt excepted from discharge under paragraph (2), (4), or (14) of section 523(a) of this title shall hold such payment, such money, or such property in trust and, not later than 20 days after receiving such payment or collecting such money or property, shall distribute such payment, such money, or such property ratably to individuals who then hold debts entitled to priority under this section. Not later than 5 years after receiving such payment or collecting such money or property, such creditor shall make the distribution required by this section to all individuals whose identity is known to such creditor, or is reasonably ascertainable by such creditor, at the time of distribution.

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Florida (Mr. SHAW) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

Modification to Amendment No. 6 Offered by Mr. Shaw

Mr. SHAW. Mr. Chairman, I ask unanimous consent that the amendment be modified in the form that I have placed at the desk and which was, just a few minutes ago, supplied to each side.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to Amendment No. 6 Offered by Mr. SHAW:

Page 76, line 17, insert the following before the 1st period: except with respect to any property of the debtor acquired after the date of the filing of the petition. A creditor that receives a payment, or collects money or property, in satisfaction of all or part of any debt excepted from discharge under paragraph (2), (4), or (14) of section 523(a) of this title shall, not later than 20 days after receiving such payment or collecting such money or property, distribute such payment, such money, or such property ratably to individuals who then hold debts entitled to priority under section 507(a)(3) of this title. Not later than 2 years after receiving such payment or collecting such money or property, such creditor shall make the distribution required by this section to all individuals whose identify is known to such creditor at the time of distribution.

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Is there objection to the modification of the amendment?

Mr. NADLER. Mr. Chairman, I have no objection.

The CHAIRMAN. Without objection, the modification is agreed to.

There was no objection.

(Mr. SHAW asked and was given permission to revise and extend his remarks.)

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

I rise to offer the Shaw-Camp-English amendment that is central to the Committee on Ways and Means' work on the collection of child support.

Under the leadership of the gentleman from Pennsylvania (Mr. GEKAS), the Committee on the Judiciary has succeeded in not only maintaining existing child support priorities but in creating a new priority to help custodial mothers who are owed child support after bankruptcy. While the legislation creates a post-bankruptcy priority for child support, it does not contain a procedure for the enforcement of same.

We are afraid that credit card companies will outperform mothers, especially poor mothers, in securing the father's money, the very money that Congress has determined should go first to the mothers and to the children.

Our amendment is really just a perfecting amendment to the amendments

already adopted by the Committee on the Judiciary. If the credit card companies obtain payments from the parents who owe past due child support, the companies are required to hold the payments and distribute the payments to the custodial mothers if they surface at a later date and invoke their legal claim to the money already obtained by the companies.

This amendment would protect the limited number of custodial mothers who are owed child support but who are not in the Federal child support program and whose children's father was involved in a bankruptcy. These mothers and their children are at risk of losing money, and they cannot afford to lose this important support.

This amendment, as modified, varies from the original amendment that was made in order by the Committee on Rules. In doing so, I eliminated the need of the trust, which was provided in that particular bill, which has caused great heartburn, and I think rightfully so, to some of the banks and credit card companies that would be holding these particular funds. We also reduced from 5 years to 2 years the period of time in which these claims have to be made and we also require, as a condition for this liability, that they have actual notice of the claim of the parent.

I think this is a very reasonable amendment, and I would urge its adoption.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Who seeks time in opposition to the amendment?

Mr. GEKAS. Mr. Chairman, I rise in opposition to the amendment. I rise in opposition to the bill as it is now constructed.

Mr. NADLER. Mr. Chairman, I rise in opposition.

The CHAIRMAN. Is the gentleman from Pennsylvania (Mr. GEKAS) opposed to the amendment offered by the gentleman from Florida (Mr. SHAW)?

Mr. GEKAS. I am opposed to it in the first instance in the structure that it now contains. I am opposed to it. I reserve the right to change my mind after I make some remarks for the RECORD.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. GEKAS) is recognized for 5 minutes.

PARLIAMENTARY INQUIRY

Mr. NADLER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. NADLER. Mr. Chairman, I assume that side of the aisle is not going to control 100 percent of the time.

Mr. GEKAS. Mr. Chairman, I will yield to the gentleman myself if I have some time. I will yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, is not the normal practice to, in this case, to have three people controlling time?

The CHAIRMAN. The 5 minutes in opposition is controlled by an opponent and in this case the gentleman from Pennsylvania (Mr. GEKAS) is recognized.

Mr. GEKAS. Mr. Chairman, I am an opponent, and I am going to yield to the gentleman from New York, if I have some time left, and I will try to reserve some time for him.

Mr. Chairman, I yield myself such time as I may consume.

The only reason I oppose the amendment in its original concept, now I am being converted slowly but surely to the thrust of the bill, was that it was so inflexible. It was too difficult to implement, in our judgment. It would cause more trouble than it would solve.

Now that the language has been improved in which some of the language that would have made a credit or a trustee for the support payment has been eliminated, I feel a little better about it. So in the final context of it, after I yield to the gentleman from New York, I may change my mind and agree to the bill or at least not vote against it.

Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I simply want to point out, this amendment originally required that the credit card company that obtained payment from a parent who owed past due child support, a nondischargeable debt, and they obtained the payment from someone who owed child support, had to hold this money in trust for up to 5 years in case they found and made due diligent efforts to find the parent owed the child support and then turned it over to her.

The amendment is simply eliminating the due diligence effort and is shortening the time period to 2 years, and what it is really doing is making a real admission. The admission is that when all is said and done, the nondischargeability, making credit card debt nondischargeable, as this bill does, makes it impossible in the post-discharge situation to enforce the child support.

The change in this amendment recognizes this, because it would be a real burden to hold it for 5 years. But why would you want to hold it for 5 years? Because the credit card company has gotten to the bank first, and they may not know where or who the child support owed the custodial parent is. This is just throwing in the towel and admitting that we cannot enforce the child support, and there is no point in this situation. And there is no point holding the money in trust for 5 years so we will only do it for 2 years.

I do not oppose the amendment, but, again, I think it just illustrates that what we are saying about the provision of the bill, that making that credit card debt undischargeable makes it impossible, makes it very difficult to collect the child support despite all the cosmetic amendments that we have heard about.

Mr. SHAW. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. CAMP), coauthor of the amendment.

Mr. CAMP. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in support of the Shaw-Camp-English amendment. The collection of child support has been central to the work of the gentleman from Florida (Mr. SHAW) on the Committee on Ways and Means, to all of our work on the Committee on Ways and Means. And the gentleman from Florida (Mr. SHAW) and I appreciate the efforts of the Committee on the Judiciary in making the collection of child support payments the number one priority for debtors in reorganizing their debt.

We should make absolutely sure that kids receive the support they are entitled to. Our perfecting amendment would merely require credit card companies which obtain payments from debtors who owe past due child support to pay custodial parents if they surface at a later date. Without this additional protection, parents with children living on tight budgets, who cannot afford to bring legal action, may not be able to collect the money they desperately need.

I urge the House to pass this important amendment and ensure that children continue to be this Congress's top priority.

Mr. SHAW. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. ENGLISH), the other coauthor of the amendment.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I rise in strong support of the amendment offered by the distinguished chairman of the Committee on Ways and Means' Subcommittee on Human Resources that will build on efforts initiated in our subcommittee to further strengthen our Nation's child support system.

I appreciate that H.R. 3150 provides for a new Federal priority for child support debt. Under our amendment, though, if credit card companies obtain payments from parents who owe past due child support, the companies are required to distribute the payment to custodial mothers, if they surface at a later date, and invoke their legal claim to the money already obtained by the companies.

This amendment will protect approximately 150,000 mothers who are owed child support and whose children's father was involved in a bankruptcy. In my view, this is a critical part of closing the loop, offering additional protection to mothers and their children, and making sure that these collections will go forward.

I hope this amendment will pass with bipartisan support.

Mr. SHAW. Mr. Chairman, I yield myself such time as I may consume.

I would urge the passage of this most important amendment. There is no greater responsibility that people have in their lives than to take care of the children and help support the children

that they have helped bring into this world. I think it sets the priorities right, and this offers a mechanism by which this money can be made available for the support of the children.

Mr. Chairman, I yield back the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself the balance of my time.

Let me reiterate, the intent and purpose of the Shaw amendment is of the highest import, because we have attempted in different ways to parallel that intent in language that we have already incorporated either in the basic bill or in amendments to that bill.

All of us are interested in making certain of the priority, highest priority for support payments. I still have reservations about the workability of the amendment that the gentleman from Florida (Mr. SHAW) has offered, but he has now created new language which may make it more acceptable.

I will continue to monitor it between now and the time of conference and work with the gentleman from Florida (Mr. SHAW) for even more perfect language, for the perfection that he has already accomplished, and still reserve the right to work against it if I think it hurts the overall concept of the bill.

In other words, I do not know where I am on the gentleman's amendment.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I can appreciate the gentleman's position at this late date, coming in, particularly, with the new language. But I thank him for his consideration of this new language, and I thank him for holding fire at this particular time. And also I would like to thank the gentleman from New York (Mr. NADLER). I think this is a very, very good addition to the bill that is on the floor.

☐ 1600

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. SHAW).

The amendment as modified was agreed to.

Mr. GEKAS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHAW) having assumed the chair, Mr. MILLER of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, had come to no resolution thereon.

PERMISSION FOR MEMBER TO OFFER AMENDMENT OUT OF ORDER DURING FURTHER CONSIDERATION OF H.R. 3150, BANKRUPTCY REFORM ACT OF 1998

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that, during further consideration of the bill, H.R. 3150, pursuant to House Resolution 462, that the gentleman from Massachusetts (Mr. DELAHUNT) or his designee may be permitted to offer the amendment numbered 3 in House Report 105–573 out of the specified order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

BANKRUPTCY REFORM ACT OF 1998

The SPEAKER pro tempore. Pursuant to House Resolution 462 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3150.

☐ 1601

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes, with Mr. MILLER of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, amendment number 6 printed in House Report 105–573 had been disposed of.

Pursuant to the previous order of the House, it is now in order to consider amendment number 3 printed in House Report 105–573.

AMENDMENT NO. 3 OFFERED BY MR. DELAHUNT

Mr. DELAHUNT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. DELAHUNT:

Page 25, after line 6, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 105. AUTHORITY TO IMPOSE FEES PAYABLE FOR COSTS INCURRED TO ADMINISTER THE AMENDMENTS MADE BY SECTIONS 101 AND 102.

Section 1930(b) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2) The Judicial Conference of the United States may prescribe additional fees that are both—

''(A) payable from disbursements to unsecured, nonpriority creditors in cases under chapter 13 of title 11; and

''(B) based on the estimated increased costs incurred in cases under chapters 7 and 13 of title 11 of the United States Code, by the Government to carry out the amendments made by title I and subtitle A of IV of the Bankruptcy Reform Act of 1998.''.

The CHAIRMAN. Pursuant to House Resolution 462, the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Pennsylvania (Mr. GEKAS) each will control 5 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me begin by acknowledging the courtesy extended to me by the gentleman from Pennsylvania (Mr. GEKAS), the chair of the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary. I appreciate that and acknowledge that. I was misinformed. I thought that it was listed on today's report that it was to be last, but I am glad that I am not last, I am glad that I am here, and I appreciate his courtesy.

Mr. Chairman, this amendment is about credit cards. This is because, in many respects, the entire bill is about credit cards. Credit cards are the reason many people are in bankruptcy today, and credit cards are the reason we are here today.

We all know there are some individuals who abuse the bankruptcy system. And those who let their financial affairs get out of control should take responsibility for the consequences of their action.

But responsibility is a two-way street. I find it extraordinary that people who solicit relentlessly and indiscriminately, without hardly any limitations on their lending practices, should pontificate about the need for personal responsibility.

Few of us are sympathetic to that argument when we hear it from the tobacco companies or when we hear it from the liquor industry or from gambling interests, so why should the credit card industry get away with this sort of hypocrisy?

My amendment would require the credit card companies to assume their fair share of responsibility for the situation they have done so much to create. It would authorize the Judicial Conference of the United States to use a portion of the money paid to credit card companies and other unsecured creditors in Chapter 13 cases to pay for the additional costs of administering the new debt collection system the bill would create.

That is, after all, what this bill is about. It could be said that it deputizes Federal bankruptcy judges as collection agents for Visa and MasterCard. I do not think and submit that it is not unreasonable for the public to ask how this new service will be paid for.

It is not as though, in all likelihood, the public will actually see any of the proceeds. Despite the industry-funded advertising blitz and propaganda about the money that it will save every man, woman and child in America, there is absolutely no reason to believe that these companies will pass on any benefit to consumers in the form of lower interest rates. That is something that they have never done historically. As other interest rates have come down considerably, credit card interest rates have continued to either stagnate or