in a bipartisan way so we can make genuine progress.

Finally, I thank all the people who worked so hard to get this back up before this body. I thank Senator FEINGOLD. I thank all our friends on the outside. I thank everybody who has worked so hard in this effort. And we will prevail over time. But we will prevail, I believe, in a bipartisan fashion and not in one that exacerbates emotions on the floor of the Senate rather than working towards a common goal of bettering the electoral progress.

Mr. President, I withdraw my amendment.

CONSUMER BANKRUPTCY REFORM ACT OF 1998

Mr. LOTT. Mr. President, I call for the regular order with respect to the bankruptcy bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1301) to amend title 11, United States Code, to provide for consumer protection, and for other purposes.

Pending:

Lott (for Grassley/Hatch) amendment No. 3559, in the nature of a substitute.

The Senate resumed consideration of the bill.

Mr. LOTT. Mr. President, I wish to speak on the subject of the bankruptcy bill. The managers of the legislation will be here momentarily.

I should note that we did call this issue up last Thursday, I believe it was, but we had difficulty in getting to the substance because the Senator from Massachusetts did not want us to get to the substance. He had an amendment he wanted to talk about.

But Senator GRASSLEY and Senator DURBIN did make some small statements at the end of the day on Thursday. I thought it was appropriate that we go back to the bankruptcy bill and that they be able to come to the floor and lay out the outline of this legislation and begin to get Members' attention focused on the bankruptcy bill itself.

Before I go to my own discussion about the importance of this bill, I want to report to the Senate that we did just have a bicameral majority leadership meeting, House and Senate leaders sitting down, talking about the people's business. We met for an hour. And while there are many in this city who are talking about the Starr report and how it is to be dealt with and how can it be done in a fair and bipartisan way, we met for an hour and we talked only about those issues that we need to address in the Congress this year.

We talked about the appropriations bills, and it is important that we get them through the process. We have now had 11 appropriations bills pass the House, 10 pass the Senate. We are trying desperately to get the 11th appropriations bill to begin to move here in the Senate; that is the Interior appropriations bill. So we will only have left in the Senate after Interior, the D.C. appropriations bill, and the Labor, HHS, Education, and other agencies and departments' appropriations bills—only two. I have urged the appropriators on both sides of the aisle, both sides of the Capitol, to work expeditiously. If we have issues that we just cannot agree on between the two bodies or between the Congress and the White House, set them aside. The important thing is to get the job done.

We also then talked about the importance of preserving Social Security, but allowing the people to get some of their hard-earned taxes back. Absolutely, before we leave this year, we should pass legislation to eliminate the marriage penalty tax. We should allow for the self-employed deduction. The American people don't really realize it, although I am sure they feel the pinch, the American people are being taxed now at the highest levels in years and years and years. They need some relief. Some of the money that is coming up here now, going into the surplus, certainly should go back to the people.

The administration cannot come up here and say: We want all this extra spending for what we consider emergencies, and that will not count against Social Security, but, by the way, if you allow for some tax cuts for the people who earned it in the first place, oh, by the way, you are taking that out of Social Security. That kind of argument, I don't believe, in this atmosphere, is going to sell this year.

But we talked about the fair way to do tax cuts. We talked about what we might want to do next year in terms of more tax cuts, across-the-board rate cuts next year, and how we can begin to make progress in preserving Social Security.

We also talked about the importance of keeping our commitment on the balanced budget last year, sticking to the caps. Yes, there may be some real emergencies we will have to address, but other than that, we need to stick to the caps we agreed to. We gave our word 1 year ago, and we ought to stick to it.

Then we talked about other issues. Higher education—we have a conference committee meeting this week. Hopefully, they will complete agreement on the conference report on higher education this week—certainly within the next few days—so that our children will have access to the colleges—community colleges and universities all across this country. We will get that done.

Mr. President, we talked about the importance of this bankruptcy reform. That brings me to this particular issue. This legislation is long overdue. We have a system now in America which encourages people to take bankruptcy and get out of their debts. We have a system that does not take into consideration that small businessman or woman, that furniture store that is run by the husband and the wife. They are trying to make ends meet. They are selling furniture on credit, and people who are supposedly buying that furniture are declaring bankruptcy or just walking away from what they owe and getting out of their debts. We need reform. This is bipartisan. It came out of the committee of jurisdiction by a wide margin.

I know Senator DURBIN, Senator DASCHLE, Senator GRASSLEY on this side, Senator HATCH—a number of Senators have worked on this legislation. We need to get it done. We are this close to having it go down because Senator KENNEDY wants to offer the minimum wage increase to bankruptcy reform. It is not related to bankruptcy reform, but he insists on it being added to this bill.

It is curious to me, why this bill? It could be to any other bill. Oh, no; he wants this one. I suspect it is because he knows that this is a bill that the leadership on both sides would really like to have. But he is willing to take down this very important legislation to be able to offer his minimum wage increase, even though we have had minimum wage increases the last 2 years in a row and I have had store owners, restaurant owners, self-employed individuals who have little small businesses who have come to me and said:

OK, we made it the last time, but we are at the limit. We have had to let people go so we can make a living. We are working more hours. But if we have to go through two more, or three more, minimum wage increases, we are going to go out of business. At a minimum, we are going to have to lay people off.

But here is my attitude. If Senator KENNEDY will be reasonable and will agree to a time limit, he can offer his amendment and we will have a vote. But then I think we ought to be able to go on to the bankruptcy bill itself and complete the work with a reasonable time limit and amendments on that.

Some folks say you always want to limit amendments. If you limit a bill to 15 amendments, that is not what I would call a big limit. And I am not saying 15, but something reasonable so we can get bankruptcy done, so we can come back to Interior appropriations, let the Senator from Wisconsin come back again, you know, have something to say, have another vote on Interior appropriations involving campaign finance reform. But at what point are we going to say, ''OK, we played our games''? You have had your votes. We have had our votes on campaign finance reform. We have had votes on bankruptcy reform. We have had votes on national missile defense. We have had all these other votes. But at some point we have to say, ''OK, we have dealt with it, we made our point, and we are going to move on the people's business,'' whether it is the Interior appropriations bill or the next appropriations bill. I understand the plan on the D.C. appropriations bill is to offer a whole series of nonrelevant amendments on that bill.

When does it end? If we can come to some reasonable agreement on time—Senator DASCHLE and I talked last night; Senator DURBIN and I talked this morning, Senator GRASSLEY. I said, let's work out something on bankruptcy so that everybody gets a fair shot but we can get this bill done.

I will yield to the Senator if he has a question or comment.

Mr. FEINGOLD. I appreciate the comment. Let me indicate, as I indicated before, if the process of debating campaign finance reform would ever be permitted to involve the normal amending process, without even insisting on giving up the right to filibuster, that that is the critical element, because without that, we are not in a position here to do what was done in the House where there was a lot of debate over many months, but they were able to offer amendments. Here, as soon as we won on the Snowe-Jeffords amendment, it was over, there were no more amendments. This has happened three times now.

Mr. LOTT. I had an amendment on paycheck equity. If we add paycheck equity to the bill——

Mr. FEINGOLD. Which we debated.

Mr. LOTT. I would be much more inclined to favorably consider this legislation. For labor union members to have their dues taken from them and used for political purposes without their permission, I think that is a very, very critical point. That is part of what I am talking about. This bill is not balanced. It tilts the scale very definitely to your side of the aisle. Where is the fairness?

Mr. FEINGOLD. I say to the leader, that is what the amendment process is for. Your amendment came up and, quite frankly, didn't prevail. Our amendment came up and did prevail, and there were many other amendments and we just stopped. I recognize there may be another version of the Paycheck Protection Act that may prevail. My problem is that it stopped at that point, and that is not the normal procedure. That is what I am asking for, that everybody do their amendments, and at the end of the day, I know, unless you change your mind—and I recognize you don't need to—that we still need 60 votes, but to have the amendments, to have everybody's ideas presented and voted on, is what we are asking for here.

Mr. LOTT. Mr. President, I might say, the Senator from Wisconsin said, ''Well, we realize in the end we may not have 60 votes.'' In fact, some of the amendments that I would offer you would likely wind up being filibustered. You would. I have a long list of really interesting amendments that I don't think you would particularly like, but I like them a whole lot. So here is my point.

Mr. FEINGOLD. Mr. President, I say to the leader, I would be happy to try that process. We tried the poison pill, and it didn't work.

Mr. LOTT. Poison pill. These are not poison pills. They are very legitimate amendments. But here is the point: You acknowledge that at some point you have to have 60 votes. We went through this last year. It derailed the highway bill. We didn't get 60 votes. It came back this year, in an effort to be fair, to see if something had changed. We had votes. It got 52 votes. Then the argument was made, ''Well, gee, the House voted on a different bill, by the way, and things maybe have changed.'' We voted again. Things haven't changed.

How many times do we have to go through that exercise? The day will come when maybe really we can work in a bipartisan way on a bill that is fair to all concerned and we will maybe be able to bring it to a conclusion. I won't say that day won't come. I think it will, actually. The question is, When will that be and what will it be? And I am going to work on that.

Mr. FEINGOLD. I say to the leader, you have been enormously courteous. I want to make one more remark.

Mr. LOTT. I yield for one more comment.

Mr. FEINGOLD. I think it is essential for the country that this process—and I realize it is a difficult one—be completed this year because of the danger of what will happen in the year 2000 election. We cannot let another 2-year cycle begin with the corruption that already existed in the 1996 elections and the problems with this year's elections to not finish the job in whatever form it is, however we can reach a consensus. You and I know we reached a consensus on the gift ban. We sat down in a room, and we worked it out.

Mr. LOTT. If the Senator will recall, you were in the room, Senator LEVIN and I were in the room, and we made it work.

Mr. FEINGOLD. That is what I just indicated. When we sat down, we made it work. I suggest and make my plea to you: Let's sit down and try to work out something so that we can accomplish something in this regard to make the year 2000 elections look something better and different than the mess in 1996. That is my plea.

Mr. LOTT. Mr. President, I say to the Senator from Wisconsin, I appreciate your courtesy. You have always been courteous. You have always been very reasonable in the way you have approached everything around here. Maybe the day will come when we will be able to sit down and agree on something. I don't see it at this point. I think the timing is wrong. After all, 2000 is still 2 years off. You have 1999. We will see where we can wind up.

For now, I want to focus our attention on the bankruptcy bill itself. I see that Senator DASCHLE is here. I noted in his absence that we have Senators on both sides now trying to work out an agreement. I hope we can make some progress on that this afternoon or tonight and that we will go forward with the substance. I understand Senator GRASSLEY and Senator DURBIN will be coming over to, in effect, do their opening statements which they didn't really get to do last Thursday night. We will let them begin the bankruptcy bill while we see if we can work something out.

For Senators who may not be aware of it, I said last night while we filed cloture, it is my hope that we can work out an agreement, and we can vitiate that cloture vote tomorrow. But we do need to get something worked out so we won't have to go to cloture, because I think if we do have another cloture vote and it doesn't prevail, we really have to go on. I can't stand up here and say we need to go to Interior appropriations and then stay on bankruptcy beyond a reasonable period of time. But I think it is possible, because I know there is a lot of support on both sides of the aisle.

With that, Mr. President, I just want to say I will be working with Senator DASCHLE to see if we can work this out, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LEVIN. Will the Senator withhold that for one moment so I can add one comment?

Mr. LOTT. I ask the quorum call be withheld, and I yield to the Senator from Michigan for a question.

Mr. LEVIN. Well, just for one brief comment, if I might, to the majority leader. I thank him for his comments. When the proponents of civil rights legislation were faced with a filibuster, they didn't succeed the first time to get the necessary votes, which I think then was two-thirds. They didn't withdraw the civil rights bill. Because they felt it was so important to the Nation that we pass that legislation, they decided that the filibuster, which is their right under the rules—it is not required that people who offer a bill or an amendment withdraw their amendment or their bill just because they are being filibustered.

The situation here is that there is a bipartisan group, a majority, who feel very, very strongly that this is a transcendent issue, that this is an issue which cuts across so many other issues, that the soft money loophole has undermined public confidence in a significant way in our elections.

I think it is important that everybody be straight with each other, and I think you have been straight with us and we have been straight with you. Senator MCCAIN and Senator FEINGOLD have worked on a bipartisan basis in a way which is really important for the Nation.

It is important that everybody understand that this amendment will be reoffered on the next appropriations bill because of the seriousness with which it is held on a bipartisan basis, and then folks who want to filibuster have that right, but folks who don't want to help that filibuster succeed also have rights to reoffer it. Those are the rights which will clash. That is why we are here to do this in a civil way. The majority leader has always

been civil in his dealings on this issue, as on all other issues.

I want to add both the statement that I have made and also to be very clear and be very straight with the leadership as to what the intent is, which is to reoffer this amendment on the next appropriations bill.

Mr. LOTT. Mr. President, if I might just respond briefly, obviously, Senators are entitled to offer amendments, and then other Senators are entitled to offer second-degree amendments. The Senator knows very well that cloture votes and filibusters are an important part of this institution. You may not like it, depending on which end you are on on that subject, whether you are on the receiving end, but it is there and it is an honored and a time-preserved process we use around here.

Also, the Senate sometimes works on an issue for years—years—before you get a consensus. I worked on telecommunications for 10 years. This year, and we got very little credit for it, but this year we passed the Workplace Development Act, a consolidation of job training programs. We worked on it for 3 years. We failed at the end of the last Congress to pull it out. We finally got it done, sent it over to the President, and because everything else was going on, it didn't even receive any notice. Sometimes consensus takes time.

Also, I have watched the Senate over a period of years on a number of issues, sometimes when Republicans were pushing them; sometimes when Democrats were pushing them. You reach a point where you say, ''I made my point for now; I'll be back, but now we are going to go on and do our business.''

We have 19 days left, assuming we are going to try to go out October 9, 19 days left in this session.

We still have important work to do, including a lot of bills on the issues that we agree on in a bipartisan way, and with only 19 days to accomplish them.

The Senator has his rights, but as majority leader and in the leadership we have to try to find a way to have those votes, but then to move on. So I am sure you understand. I understand where you might have to come from, and I hope you will understand what I would have to do under those conditions to try to keep the focus.

But the next 19 days are not going to be easy under the best of conditions. The Senate is expected to show decorum and restraint and dignity, and I know we are going to do that. We also have to reach out across the aisle and say, ''Can we find a way to work through these bills?''

I think the people will be watching us. We have to do a little preening. You have to make your positions clear, we have to make our positions clear, and then at some point we have to come together. We will not necessarily agree at the beginning on what the solution is to agriculture in America. But it is very important in South Dakota and in Ohio and Mississippi and all over this country. But at some point we are going to come together because this is a problem, a real problem, and we can find a solution.

So I hope that is the way that we will proceed. Make your points, on both sides of the issue—on both sides of the aisle—and then let us sit down and see if we can find a way to come to an agreement to do the best we can. It may not be all we want to do, or it may be too much in some cases, but I am prepared to work in that vein. And I am hoping, again, in spite of all the other distractions, that we can keep our attention focused. And I will try to help to do that.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. SNOWE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Madam President, I ask unanimous consent that the Senate proceed with debate only on the bill before us, the bankruptcy bill, until 5 o'clock.

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

Mr. GRASSLEY. Madam President, I think that we need to consider once again the very important issue of bankruptcy. Senator DURBIN has cooperated very well in the subcommittee's work and the committee's work to bring the bill this far.

Why are we introducing a bankruptcy bill? Why do we need major bankruptcy reform? I think it is pretty simple that under the current system an individual can avoid paying the debts that he has incurred with few, if any, questions asked even if that individual has some ability to repay all or a portion of those debts.

This much too easy bankruptcy system encourages irresponsible behavior and costs businesses and ultimately consumers they serve millions of dollars a year, adding up to $40 billion a year in added cost to product and service.

They have to raise their prices to cover this. You, as a consumer, pay this. That is $400 for the average family—a hidden tax. You can see this being possible because individuals can declare bankruptcy under chapter 7 where debts are rarely repaid. Or there is the choice of chapter 13 which requires debtors to repay a discounted portion of their debts. And obviously—and this bill does that—Congress should encourage the use of chapter 13 where creditors will at least receive something, whereas under chapter 7 rarely anything.

Our bill imposes a means test for people who declare bankruptcy. If a person can repay all or some of their debts now, or even over an extended period of time, they will either have to file under chapter 13 or stay out of the bankruptcy system entirely. This will mean that the businesses which extended credit in good faith will not be left with absolutely nothing.

Our bankruptcy reform bill imposes a means test by letting creditors file motions under section 707(b) of the Bankruptcy Code. These motions would raise evidence concerning a debtor's ability to repay debt.

Under current law, creditors—the people with the most to gain or lose—are expressly forbidden from doing this. By opening the doors to creditor involvement, businesses can become masters of their own destiny.

Of course, in order to prevent abusive court filings—we don't deny that there can be some abuse of this privilege, but we have included penalties if a court dismisses a creditor's motion and determines that the motion was not substantially justified.

Our bankruptcy reform bill contains a unique feature which will provide important assistance to small businesses which may not be able to afford to press their case in bankruptcy court. The chapter 7 public trustees—these are the private individuals who administer bankruptcy cases and who are in the best position to know whether debtors can repay their debts—are allowed to bring evidence and motions to the bankruptcy judge. If the judge grants a motion to dismiss a bankruptcy petition or to transfer the case to chapter 13, the attorney for the debtor will be fined and the fine will be paid to the chapter 7 trustee as a reward, as an incentive for detecting an abuse of the bankruptcy system by a debtor and by the counsel for that person that owes money.

Thus, a well-informed cadre of bankruptcy trustees with a meaningful financial incentive will be empowered under this legislation to find debtors who could repay and get them into chapter 13 or out of the bankruptcy system entirely.

A recent survey of chapter 7 trustees indicated that over 80 percent of the trustees would use this power if it were given to them. Empowering chapter 7 trustees will help small businesses since the effect of transferring or dismissing a case will be that creditors will collect more and bills will be paid. There will be less of an incentive to go into chapter 7 willy-nilly if there is somebody looking over the shoulder to see that it has been done right. We then avoid those people who might be shady, those people who might be using bankruptcy as part of personal financial planning. Under this procedure, small businesses would need only to sit back and let the trustee seek his reward and would not have to spend a dime to litigate the case.

This is important legislation. It will help all consumers because it will help businesses collect debts that will otherwise remain unpaid and be passed on to the people who pay their debts and never declare bankruptcy. This bill is

about basic fairness. It is about time that Congress provides fairness for all consumers.

Madam President, I think it is very important that we consider on this latter point that I made about the trustees being able to review these bankruptcy cases, that we make very clear that this ought to encourage the bankruptcy bar, to some extent, to be very careful, whereas we feel some are not so careful now in its present environment of the last 20 years of counseling people into bankruptcy in the first place or into chapter 7 as opposed to chapter 13. I don't think a lawyer is going to want to take a chance on being penalized for putting somebody in chapter 7 that should have been in chapter 13; or even putting somebody in bankruptcy that shouldn't have been there in the first place. We feel that we need to get the bankruptcy bar back to the point where they are advising people; that in every instance a person might feel that they want to go into bankruptcy, that it might not be justified.

I yield the floor. I want to give my good friend, the Senator from Illinois, an opportunity to speak on this subject.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you, Madam President.

During the course of this debate on the bankruptcy bill, we will be talking about a number of aspects of this procedure. When you consider a nation of 260 million Americans, and I guess about 1.3 or 1.4 million each year file bankruptcy, the vast majority of people who may be watching this debate have no personal knowledge of the subject. Of course, some lawyers and people who are involved in credit counseling do, but, unfortunately for a lot of unsuspecting people, bankruptcy becomes a critical part of their lives. Senator GRASSLEY and I are attempting to change the bankruptcy code in a way that is fair, that will reduce abusive bankruptcies, but still allow the procedure to be available to those who truly need it.

Let me give an example of one of the amendments which I have offered, or will offer if given the opportunity, which I think tells an important story about bankruptcy; that is, the whole question about retirement funds. Creditors want those who file for bankruptcy to pay their creditors every penny they have, often including retirement savings. If you are 54 years old and you have some IRAs, some 401(k) plans that you are putting aside for your own retirement and then lose your job after 30 years due to a merger or downsizing, or if someone in your family—a spouse or a child—incurs major medical bills and you find yourself facing literally tens of thousands, maybe hundreds of thousands of dollars in debt and find you can't pay your bills, you may be forced into bankruptcy. What may be at stake is not only the money you have on hand, but the money you have saved for your retirement.

Under current law, if you filed for bankruptcy, they go after everything except the 401(k) plan. So if you put aside these individual retirement accounts or Roth IRAs thinking, ''Someday I will need this to supplement Social Security,'' you will be shocked to learn that the creditors—the hospitals and doctors or whoever it might be—are going to say, ''I'm sorry, but that IRA is now something that I can take away from you to pay off your bills.''

That is why I think this amendment which I am going to introduce is so necessary. Current law puts Americans with financial problems in a Catch 22 situation: Either declare bankruptcy and go into poverty in old age, or don't declare bankruptcy and live in poverty now with creditors harassing you because your current bills and health care costs sap your entire income.

This amendment that I want to offer to the bill, one of several, ensures that retirement savings survive a bankruptcy proceeding intact. The funds will be preserved to provide for your care and expenses in old age, rather than being paid to creditors who are unwilling to compromise when meeting this financial setback. It also provides that if you took a loan from your retirement savings, for example, to fund a downpayment on your house, you will have to pay yourself back by payroll deduction, uninterrupted by the bankruptcy.

I think there are reasons to support this amendment. It is a good indication of why some amendments are needed on this bill. Think about the gravity of this situation and challenge. The retirement savings of hundreds of thousands of elderly Americans are at risk in bankruptcy proceedings. In 1997, an estimated 280,000 older Americans—that is, age 50 and older; and I am included in that group—filed bankruptcy; though I didn't file bankruptcy. Almost one in five bankruptcy cases, 18.5 percent, involve one or both petitioners coming to court who are 50 years of age or older.

What are the top three reasons Americans give for filing for bankruptcy? Job loss, overwhelming medical expenses, and a creditor's refusal to work out repayment plans. Nearly 50 percent of older Americans declare bankruptcy because they lost their job at or about the age of 50. At this age, it is a tough situation to find another job that pays as well. It can be catastrophic to an entire family.

Parents may have kids in college, elderly parents to care for, a house that may need a new roof, and a family that may have overwhelming medical expenses. About 30 percent of older Americans filing bankruptcy due to family medical bills that are completely beyond their capacity to pay. You should not have to choose between your family's health and your financial security in your old age. One in ten older Americans files bankruptcy because their creditors have refused to work with them to pay their bills. One in fifteen older Americans files bankruptcy to save a home they are about to lose.

Young people really are protected by this amendment, as well, when retirement funds are set aside over a person's working career to provide them with privately funded care in their old age. My mother lived to the age of 87, and she always said time and time again, for years and years, ''I just don't want to be a burden on you and your brothers.'' She never was, but she was always worried about it. She saved carefully, so that there was money set aside, so that if something happened, she would be able to take care of herself and would not have to turn to us.

I think that is the feeling of many senior citizens who put aside savings in IRAs and 401(k) plans, so they can be independent and live a life that doesn't take away from their children.

But think about it. If something comes along, like a catastrophic illness, you have reached the limit on your health insurance policy, and all of a sudden debts are cascading around you and bankruptcy is the only option, you lose everything you saved—and independence is important to all of us, and particularly to those in their senior years.

Security in retirement can only be achieved through the accumulation of assets over a working lifetime. Retirement funds should not be at risk simply because of an unexpected layoff or medical problems, sending a debt-strapped family over the financial edge. I don't think this amendment is subject to abuse, because debtors can't really sock away money in a retirement account just before filing for bankruptcy. Retirement plan contributions are heavily regulated and limited by law and not subject to bankruptcy planning abuse. Debtors have been criticized for poor management skills, but they should be rewarded, not penalized, for making rational economic decisions, like preparing for retirement.

Who supports this amendment? The AARP, American Association for Retired Persons, National Council of Senior Citizens, the Profit Sharing 401(k) Council of America, the National Council on Teacher Retirement, and the New York State Teachers Retirement System, just to name a few.

My reason for explaining this amendment is that there is debate underway here as to whether we will allow amendments to the bankruptcy bill. This is an illustration of the type of amendment that I think is important, so that we make certain that this reform of the bankruptcy code recognizes the reality of life in America. We want to protect the retirement funds of those who have been careful enough to save, who could never even have anticipated an economic calamity such as I have described. We want to make certain that they are given a chance to come through bankruptcy not only

with dignity but with a chance to lead a good life.

There are other elements to be considered as well. I would like to address one or two of them before giving the floor back to Senator GRASSLEY of Iowa.

We have talked a lot about those who file for bankruptcy. I think it is important that this be a balanced discussion, so that we talk about those who, frankly, are using the credit system in this country to make a great deal of money. Credit cards are one of the most profitable areas of financial endeavor in America. Those who have taken a close look at the interest rates they pay on credit cards understand why. If you happen to be late in making a monthly payment and the balance is held over another month, sometimes the interest rates can be dramatic in comparison to what we pay for mortgages and other loans, like automobile loans. The interest rates, many times, on unsecured debt, like credit card debt, can be substantial.

Unfortunately, I don't believe many credit card companies or other financial institutions are as honest as they should be with American consumers. I will bet most of the people who are listening to this debate will open their mailboxes up today and find a preapproved application for a credit card. We know we are going to find them whenever we go home. If you look at it, you will understand that nobody has analyzed your credit situation. They have basically said: Here is another $100,000 in debt that you can run up if you like, at an interest rate that you may be able to pick out in the fine print on the back of the solicitation.

I visited a football game in Illinois last year where they were passing out free T-shirts to any student at the University of Illinois, Champaign-Urbana, who would take an official University of Illinois credit card. They ran out of T-shirts because the students could not wait to get them. Most of these students ended up with credits cards, most without much income. We don't want to limit opportunities, but we do want honest disclosure. At that particular football game, the credit card company offering this credit card had posted on a banner behind the little booth, ''Permanent introductory rate, 5.9 percent.'' Think about that for a minute. ''Permanent introductory rate''? How does that work? Clearly, at some point in time you are through the introductory period and into a new rate.

I think it is important that there be an honest disclosure of the interest rate people will be charged on credit cards, so that on the myriad—perhaps dozens—of credit card solicitations you receive, you can make the right choice, not just the come-on rate, the attractive 6 percent or something on the envelope. What are you really going to be charged as an interest rate?

I think the credit card companies owe it to us as well to send us, along with the credit card application, a worksheet so that people can say: Let me see, exactly where am I? How many debts do I owe? How much income do I have? Does this worksheet give me an indication as to whether I should go further in debt? I don't think that is unreasonable.

I also think the monthly billings we receive from many of the credit card companies are a mystery to try to figure out, what they mean and what it means if we make certain payments. For example, there will be an amendment offered here, I believe, by the Senator from Rhode Island, Senator REED, which will say that you cannot have your credit card canceled if you pay off the entire balance each month. Many people are surprised to learn that. They make the payment and say, ''I am a good customer.'' Obviously, they got their bill and paid it. But then the company says: ''We are not interested in your business anymore. If you are not going to carry a debt and pay us interest from time to time, or regularly, then we don't want you as a customer.'' They don't disclose that when you get the card. But you may find that out later on.

Also, if you look at the monthly statement, it says ''minimum monthly payment.'' Well, I think there are some obvious questions that should be answered when they say ''minimum monthly payment.'' If I make that minimum monthly payment, how many months will it take me to pay off the balance if I don't add another penny of debt? How much will I be paying in interest? Those are not unreasonable questions. I think the average consumer should have the answer right there on the monthly statement.

I looked at my own credit card recently just to see what the minimum monthly payment might result in. It resulted in my paying off the balance in a mere 60 months—5 years. That is paying off the current balance with a minimum monthly payment.

The time may come when an individual can't pay off the credit card on a regular basis. They may have a problem and fall behind. That is understandable where the minimum monthly payment may be the only thing they can come up with. I think we have to educate consumers so they don't fall into this trap.

There is another element here that I have learned during the course of this debate. Some people are surprised to know that once they have the credit card in hand and make a purchase, if you have a debt that they are trying to pursue in bankruptcy, the credit card company not only has recourse against you personally but has recourse against whatever items you purchased with the credit card. Surprise, surprise. You turned around and bought a television or a stereo with the credit card, thinking that that was the way you were going to own it, and you get into bankruptcy court and they say that the fine print in the contract says, ''We now own the television.'' I think that should be disclosed. People ought to know that going in. That is another example, in my mind, of the kind of activity that would lead to a more level playing field.

Those critical of the increases in filings for bankruptcy, I think, have some good cause for alarm. There are too many. If we can reduce abusive filings, we should. The average person filing for bankruptcy in America has an income of less than $18,000 a year and average debts of $28,000. So the people we find in bankruptcy court are not the wheelers and dealers and high rollers; they are folks in lower- to middle-income situations who have run into a mountain of debt that they can't cope with. I don't want to see this bill penalize those people. I want to make certain that we are careful that whatever we do does not stop them from coming to court and trying to finally discharge their debts and start again.

There is another element in this bill which I think deserves some consideration and discussion. It is called the homestead exemption.

Under a curiosity in the law, each State can determine how much we can have in a homestead exemption, which means if I go into bankruptcy court in my home State of Illinois and file for bankruptcy, they have decided by statute in that State that the maximum amount which I can claim as the value of my home—I can't recall the exact figure in Illinois, but it is relatively modest. Some States have gone off the charts. That is why we had a couple of instances where noteworthy figures—one a former commissioner of baseball, another a former Governor of one of our States—before filing for bankruptcy, moved to, in this case Florida, and in the other case Texas, and bought million-dollar homes which were exempt under State law. They took everything that they had and plowed it into the home and filed for bankruptcy. The creditors ended up with little or nothing. Thank goodness this bill, because of the amendment offered by Senator FEINGOLD of Wisconsin, is going to eliminate what I consider to be a clever loophole and an abuse in the law.

Should this bill that Senator GRASSLEY and I are working on pass the Senate, we will face a battle in conference because the House of Representatives eliminated that provision and allows each State to set whatever standard they want. I don't think that is fair. I think we ought to have a national standard. We shouldn't have people racing off to establish residency in some State to take advantage of a very generous homestead exemption. That is not fair to creditors. I hope that as a part of this debate we will preserve that important element in the law.

At this time, I reserve the remainder of my time. I yield the floor.

Mr. KYL. Madam President, about a month ago, the Administrative Office of the U.S. Courts released figures on nationwide bankruptcy filings for the

12-month period ending June 30. The figures clearly illustrate what has so many of us concerned—that is, that bankruptcy filings are becoming epidemic.

Filings for the 12-month period ending on June 30 totaled 1,429,451—an all-time high. Personal bankruptcy filings increased 9.2 percent from the same period in 1997.

Unlike other kinds of epidemics, this is one that can be avoided in many instances if credit is used wisely and people do not overextend themselves in the first place.

Certainly, extraordinary circumstances can strike any family, which is why it is important to preserve access to bankruptcy relief. No one disputes that there should be an opportunity to seek relief and a fresh start when truly extraordinary circumstances strike—for example, when families are torn apart by divorce or ill health. I suspect that creditors are more than willing to work with someone when such tragedy strikes to help them through tough times.

But there is growing evidence, Madam President, that more and more people who file for relief under Chapter 7 actually have the ability to pay back some, or even all, of what they owe. It is cases like that, where bankruptcy is becoming the option of first resort, rather than last resort, that led to the drafting of the bill before us today.

The Consumer Bankruptcy Reform Act, S. 1301, is the product of a number of hearings and months of deliberations. I would note that it enjoys broad bipartisan support, having been approved overwhelmingly by the Senate Judiciary Committee on a vote of 15 to 2. Similar bipartisan legislation in the House passed on June 10 by the lopsided vote of 306 to 118.

So what does this legislation do? Those with low incomes would continue to choose between Chapter 13 payment plans and Chapter 7 discharges, just as they do today. But to ensure that some people are not abusing the system, the bill requires bankruptcy courts to consider whether people who have higher incomes and the ability to pay a portion of their debt should be required to repay what they can under Chapter 13.

As it stands today, people with more modest incomes who live within their means are forced to subsidize wealthier individuals who abuse the bankruptcy laws. That is just not fair.

When people run up debts they have no intention of paying, they shift a greater financial burden onto honest, hard-working families in America. Estimates are that bankruptcy costs every American family an extra $400 a year.

Madam President, I want to stop at this point and single out three provisions of the bill for comment—provisions that were added in committee as a result of the adoption of amendments I offered. They represent what, in my view, are very modest, common-sense reforms of the bankruptcy system.

The first appears in Section 314 of the bill and provides that debts that are fraudulently incurred could no longer be discharged in Chapter 13, the same as in Chapter 7. Currently, at the conclusion of a Chapter 13 plan, the debtor is eligible for a broader discharge than is available in Chapter 7, and this superdischarge can result in several types of debts, including those for fraud and intentional torts, being discharged whereas they could not be discharged in Chapter 7. My amendment would simply add fraudulent debts to the list of debts that are nondischargeable under Chapter 13. It is as simple as that.

Let me take a few moments to share some of the comments that others have made on the subject. Here is what the Deputy Associate Attorney General, Francis M. Allegra, said about the dischargeability of fraudulent debts in a letter dated June 19, 1997: ''We are unconvinced that providing a (fresh start) under Chapter 13 superdischarge to those who commit fraud or whose debts result from other forms of misconduct is desirable as a policy matter.''

Here is what Judge Edith Jones of Fifth Circuit Court of Appeals said in a dissenting opinion to the report of the Bankruptcy Review Commission: ''The superdischarge satisfies no justifiable social policy and only encourages the use of Chapter 13 by embezzlers, felons, and tax dodgers.''

Judith Starr, the Assistant Chief of the Litigation Counsel Division of Enforcement of the Securities and Exchange Commission, testified before the House Judiciary Committee on March 18, 1998. Speaking about the fraud issue, she said: ''We believe that, in enacting the Bankruptcy Code, Congress never intended to extend the privilege of the 'fresh start' to those who lie, cheat, and steal from the public.'' She goes on to say:

> A fair consumer bankruptcy system should help honest but unfortunate debtors get their financial affairs back in order by providing benefits and protections that will help the honest to the exclusion of the dishonest, and not vice versa. It is an anomaly of the current system that bankruptcy is often more attractive to persons who commit fraud than to their innocent victims. Bankruptcy should not be a refuge for those who have committed intentional wrongs, nor should it encourage gamesmanship by failing to provide real consequences for abuse of its protections.

And she concludes:

> We support [the provision of the House bill] which makes fraud debts nondischargeable in Chapter 13 cases. Inducements to file under Chapter 13 rather than Chapter 7 should be aimed at honest debtors, not at those who have committed fraud.

A final quotation: The Honorable Heidi Heitkamp, the Attorney General of North Dakota, testified to the following before the House Committee on March 10:

> When a true ''bad actor'' is in the picture—a scam artist, a fraudulent telemarketer, a polluter who stubbornly refuses to clean up the mess he has created there is a real potential for bankruptcy to become a serious impediment to protecting our citizenry.

Furthermore, she says:

> We must all be concerned because bankruptcy is, in many ways, a challenge to the normal structure of a civilized society. The economy functions based on the assumption that debts will be paid, that laws will be obeyed, that order to incur costs to comply with statutory obligations will be complied with, and that monetary penalties for failure to comply will apply and will ''sting.'' If those norms can be ignored with impunity, and with little or no future consequences for the debtor, this bodes poorly for the ability of society to continue to enforce those requirements.

Madam President, I hope there will be no dissent to these anti-fraud provisions. Certainly, there should not be. Bankruptcy relief should be available to people who work hard and play by rules, yet fall unexpectedly upon hard times. Perpetrators of fraud should not be allowed to find safe haven in the bankruptcy law.

The second amendment I offered, and which has been incorporated into this bill, is found in Section 315. It, too, is simple and straight-forward. It says that debts that are incurred to pay non-dischargeable debts are themselves non-dischargeable. In other words, if someone borrows money to pay a debt that cannot be erased in bankruptcy, that new debt could not be erased either. The idea is to prevent unscrupulous individuals from gaming the system and obtaining a discharge of debt that would otherwise be non-dischargeable.

I want to emphasize that we have taken special care to ensure that debts incurred to pay non-dischargeable debts will not compete with non-dischargeable child- or family-support in a post-bankruptcy environment.

The third amendment of mine adopted in committee is reflected in Section 316 of the bill, and it is intended to discourage people from running up large debts on the eve of bankruptcy, particularly when they have no ability or intention of making good on their obligations.

Current law effectively gives unscrupulous individuals a green light to run their credit cards just before filing for bankruptcy, knowing they will never be liable for the charges they are incurring. That is wrong, and it has got to stop.

The provision would establish a presumption that consumer debt run up on the eve of bankruptcy would be nondischargeable. The provision is not self-executing. In other words, it would still require that a lawsuit be brought by the creditor against the debtor. Many valid claims for nondischargeability are never filed, because the creditors do not have enough money at stake to justify the litigation costs. But if this provision achieves the intended purpose, debtors will not only minimize the run-up of additional debt, they will have more money available after bankruptcy to pay priority obligations, including alimony and child support.

Again, special care has been taken to ensure that we are only talking about debts incurred within 90 days of bankruptcy for goods or services that are not necessary for the maintenance or support of the debtor or dependent child. We want to be sure that family obligations are met.

Madam President, I want to discuss one other aspect of the bill before closing, and that relates to the many provisions that Senators HATCH, GRASSLEY, and I crafted to protect the interests of women and children.

Nothing in the original version of the bill changed the priority of, or any of the other protections that are accorded to, child-support and alimony under current law. If members of the Senate have not seen the relevant analysis done by Judge Edith Jones of the Fifth Circuit Court of Appeals, I will submit it for the RECORD now. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. COURT OF APPEALS,
FIFTH CIRCUIT,
Houston, TX, April 30, 1998.

Senator ORRIN G. HATCH,
Senator CHARLES E. GRASSLEY,
Congressman HENRY J. HYDE,
Congressman GEORGE W. GEKAS.

DEAR SIRS: To say that I am disappointed by recent public statements criticizing the Gekas and Grassley bankruptcy reform bills is not strong enough. The quotations attributed to Professors Elizabeth Warren and Ken Klee in U.S.A. Today, April 30, 1998, p. 1, are a blatant misrepresentation of the bills and current bankruptcy law. I think we all have a right to expect more expertise and candor from tenured professors at two of our nation's outstanding law schools than are displayed in these statements.

Let me explain the obvious errors and inconsistencies in their remarks.

First, neither of the pending reform bills would weaken current bankruptcy law's attempts to protect the interests of ex-wives and children of divorce. Current law protects them in the following ways. Section 507(a)(7) of the Bankruptcy Code, U.S.C. Title 11, denominates alimony and child support payments as priority debts, payable before ordinary debts of the debtor. Sections 553(c)(1) and 522(f)(1)(A) prohibit the use of exemptions or lien-stripping otherwise permitted by section 522(f) to 523(a)(5), (15), and (18) make alimony, child support, some property settlement payments, and some debts owed to public entities for those payments nondischargeable in Chapter 7. Section 1328(a)(2) renders alimony and child support payment non-dischargeable in Chapter 13. Thus, current bankruptcy law affords special protection for marriage-dissolution claims.

Second, the Gekas/Moran Bill, H.R. 3150, would actually enhance these protections. One would think that Professors Warren and Klee would endorse these proposals if they are seriously concerned about ex-spouses and children. H.R. 3150 amends section 523(a)(5) to more broadly exempt from discharge divorce-related property settlements and attorney's fees. The bill also eliminates section 523(c), a provision which costs ex-wives a great deal of money by requiring them to litigate in bankruptcy court as well as family court over support and alimony payments. Finally, the needs-based requirement of H.R. 3150 does not kick in until priority debts, which as previously stated include those for alimony and child support payments, have been excluded from the debtor's income.[1]

Third, under current bankruptcy law, debts owed for purchases of ''luxury goods'' or certain cash advances obtained within 60 days of bankruptcy are presumed non-dischargeable if a creditor contends the debts were fraudulently incurred. Section 523(a)(2)(c). The House and Senate bankruptcy reform bills modestly extend the nondischargeability presumption—and it is no more than that—to consumer purchases within 90 days of bankruptcy. The bills hope to discourage debtors from running up large debts while knowing that they are on the verge of bankruptcy. If the debtors take the hint from these bills, they will not run up their debts and will have more money available after bankruptcy to pay alimony and support obligations. Indeed, any ethical attorney rendering bankruptcy advice after the passage of this section would counsel his clients not to run up extraordinary consumer debts within 90 days of bankruptcy. Professors Warren and Klee must either think that this provision would not influence the conduct of ethical attorneys and debtors or that many or most debtors routinely run up debt just before they file bankruptcy.

Fourth, after this provision is enacted, consumer debts incurred within ninety days of bankruptcy will become non-dischargeable only if (a) debtors don't take the hint from the statute, (b) debtors run up consumer debts within 90 days pre-bankruptcy under circumstances that are fraudulent, (c) the amount thus run up on a particular creditor is large enough to make it worthwhile for that creditor to sue in bankruptcy court under §523(c)(1), and (d) a final judgment of non-dischargeability is actually entered. Professors Warren and Klee know very well that this non-dischargeability provision is not self-executing and requires a lawsuit by the creditor against the debtor. They are also aware that many valid claims for non-dischargeability are never filed, because the creditors do not have enough money at stake to justify the litigation costs.

Fifth, Professor Warren's criticism of the family-friendliness of these reform bills puzzles me. As a member of the National Bankruptcy Review Commission. I proposed to strengthen section 523(a)(5) to enhance the protections of former spouses and children in relation to property settlements, and Professor Warren offered no assistance or encouragement whatsoever. As Reporter to the Commission, moreover, Professor Warren set the agenda for the five Commission members who rejected my proposal.

Sixth, Professors Warren and Klee are apparently harping on one provision of comprehensive bankruptcy bills in hopes of defeating the entire reform effort. Surely, while that approach might be effective politics, it is not intellectually defensible for bankruptcy specialists who are members of the academic community. This complex, multi-faceted and much-needed bankruptcy legislation clarifies the bankruptcy law, makes it more uniform nationally, and will streamline the process. But Professors Klee and Warren are not attempting to be precise, only to be obstructionist.

I hope that the important debate over bankruptcy reform will proceed on an intellectual, not an emotional level.

Very truly yours,

EDITH H. JONES.

Mr. KYL. Even though current law is clear—and even though the original version of the bill made no change in the protections that it provides—concerns were expressed that provisions of the legislation might indirectly or even inadvertently affect ex-spouses and children of divorce. Assuming that critics were operating in good faith—and because our intent was always to ensure that family obligations were met first—Senators HATCH, GRASSLEY, and I crafted an amendment to remove any doubt whatsoever about whether women and children come first.

The Hatch-Grassley-Kyl amendment elevates the priority of child-support from its current number seven on the priority list for purposes of payment to number one—ahead of six other items, including lawyer's fees that are now afforded higher priority. Our amendment mandates—mandates—that all child support and alimony be paid before all other obligations in a Chapter 13 plan. It conditions both confirmation and discharge of a Chapter 13 plan upon complete payment of all child support and alimony that is due before and after the bankruptcy petition is filed. It helps women and children reach exempt property and collect support payments notwithstanding contrary federal or state law. It exempts state child-support collection authority from the automatic stay under bankruptcy law to ensure prompt collection of child-support payments. And it extends the protection accorded an ex-spouse by making almost all obligations one ex-spouse owes to the other non-dischargeable.

Despite the various protections we have laid out, I know that some will still contend that child-support and alimony could be placed in competition with other debts that are made non-dischargeable by other provisions of the bill. But if placing more debt into the non-dischargeable category were really harmful to the interests of women and children, critics would also object to an amendment that Senator TORRICELLI offered in the Judiciary Committee—an amendment that added tort judgments for intentional torts causing personal injury or death to the list of non-dischargeable debts. But the Torricelli amendment passed without objection in committee. As a society, we have decided that people who do harm to others should be held accountable for their actions. Senator TORRICELLI's amendment will do that, and I support it.

Let us keep several points in mind about the debts that are made non-dischargeable by the bill. First, even though they are made non-dischargeable, they are given a lower priority for payment than child support and alimony. The Hatch-Grassley-Kyl amendment makes that crystal clear.

Second, the debts made newly non-dischargeable by the bill include debts incurred by fraud, debts run up on the eve of bankruptcy by those with no intention or no ability of paying, and debts that are incurred to pay otherwise non-dischargeable debts. We are

[1] These descriptions of H.R. 3150 are based on the most recent version I have.

talking about abusive use of credit. Are those who still contend we have not gone far enough really suggesting that individuals who engage in fraud and other abusive credit practices should be allowed to have those debts erased or otherwise sanctioned by the bankruptcy code? I hope not.

When people run up debts they have no intention of paying—when people are allowed to walk away from fraud and other harm caused to others—they shift a greater financial burden onto honest, hard-working families in America, including those that depend on child support to make ends meet. As I indicated at the beginning of my remarks, estimates are that bankruptcy costs every American family an extra $400 a year. Bankruptcy reform can reduce that burden.

Former Senator Lloyd Bentsen, who served as President Clinton's original Treasury Secretary, wrote an excellent column about abuse of the bankruptcy code, and ask it be printed in the RECORD at the conclusion of my remarks.

Madam President, failure to pass bankruptcy reform this year would be unfair to the millions of Americans who play by the rules, work hard every day, and struggle to pay their bills.

This bill does not go as far as I would like, but in the interest of moving it to final passage in the relatively short amount of time before adjournment, I will support the bill in its current form. I hope my colleagues will join me in voting in favor of the legislation.

I ask unanimous consent that the article by former Senator Bentsen be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GET TOUGH ON BANKRUPTCY LAWS

(By Lloyd Bentsen)

One of the most troubling financial contradictions of this decade of solid economic expansion is that while inflation has been low, unemployment down and personal income up, personal bankruptcies have been skyrocketing. Real per capita disposable income grew by 13 percent from 1986 to 1996, while personal bankruptcies more than doubled, hitting a record high of 1.2 million last year. This divergence between a healthy economy and rapidly rising bankruptcy filings is due to a relatively new phenomenon—the ''bankruptcy of convenience.''

This dramatic increase in personal bankruptcies has come with no corresponding growth in the traditional factors that correlate with bankruptcy—divorce, catastrophic health crises and job loss: The increase is driven largely by a federal bankruptcy system that discourages personal responsibility by encouraging people who can afford to pay down their debts to simply walk away from them through bankruptcy.

With growing frequency, bankruptcy is being treated as a first choice rather than a last resort, a matter of convenience rather than necessity. According to a Purdue University study, nearly half of the people who file for bankruptcy could repay a significant amount of their outstanding obligations, but instead choose to renege. Bankruptcies of convenience now constitute a significant and rising percentage of personal bankruptcy filings, and the cost to consumers from this trend is enormous.

When irresponsible spenders who can afford to pay all or part of their debt declare bankruptcy, consumers and other borrowers get stuck with the tab. It has been conservatively estimated that personal bankruptcies amount to a hidden tax of $408 per household personally, and it takes 15 responsible borrowers to cover the cost of one bankruptcy of convenience.

The ease with which a bankruptcy can currently be obtained irrespective of need is captured in a recent advertisement: ''Financial problems? Get instant relief. You may be able to keep everything—Payback nothing!'' The brazenness of this advertisement is indicative of how far bankruptcy laws have traveled from their original intent.

My former colleague Sen. Daniel Patrick Moynihan, Democrat of New York, coined an apt phrase for describing this and other similar lapses in societal responsibility. He called it ''defining deviancy down.'' To a growing number of middle class and fairly wealthy Americans, it is perfectly acceptable to treat bankruptcy as a financial planning tool, and to expect others to pay the price for debts that they choose not to honor—even if these obligations can reasonably be repaid over time. While, there is nothing wrong in legitimately admitting financial defeat by filing bankruptcy when one cannot repay debts, many people seem to be losing the justifiable sense of embarrassment Americans once felt in asking others to shoulder their burden.

Congress and the administration should act to stem the expensive and corrosive spread of bankruptcy abuse, while taking care to protect the ability of people with legitimate financial problems to enter into bankruptcy. The first step toward reversing this trend is a bill that Reps. Bill McCollum, Florida Republican, and Rick Boucher, Virginia Democrat, introduced Wednesday that would shield consumers and responsible borrowers from the costs forced on them by bankruptcy abusers in the form of higher costs or tighter credit.

The aim of the McCollum-Boucher bill is simple. It would reestablish the link between bankruptcy and the ability to pay one's debts. This is simply a matter of equity and responsibility, and this bipartisan bill should enjoy broad support. Over the course of the past two decades, the connection between financial means and bankruptcy has been severed by federal legislation, and by a change in social mores removing the stigma from filing bankruptcy. In 1978, Congress loosened bankruptcy standards to such an extent that one's financial condition is hardly a consideration anymore. At the same time, our society ''defined down'' the personal responsibility of borrowers to make good on their debts.

Now, it is the responsibility of the Congress to act to rectify this problem, it inadvertently helped to create two decades ago. In the Senate and as secretary of the Treasury, I worked with legislators from both parties to pass legislation that promotes habits that lead to financial self-sufficiency. Failure to legislatively stem the rising tide of bankruptcies of convenience, however, could endanger the progress made through these incentives for saving and investment. In addition to raising questions of fairness, imprudent use of bankruptcy laws could also produce an undesirable market response.

Both Democratic and Republican members of Congress, and the administration, have a duty to safeguard our growing economy. As an article in the August 4 issue of Fortune magazine noted: ''Eventually, a rising bankruptcy rate leads to tighter credit. Today's default rate is beginning to eat into some national lenders' profits, and some of them are already starting to pull back....Some restraint may be beneficial, but too much could mean a major credit squeeze.'' Our current level of economic growth cannot continue without sufficient investment and available credit. A rising tide of bankruptcies will sink all ships—and most hurt those who need credit most.

I am optimistic that Congress will address this burgeoning problem and firmly believe that the public supports change. Public opinion is running strongly in favor of tighter bankruptcy laws. Seventy-six percent of respondents to a poll conducted for the National Consumers League said 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, and 71 percent said it is too easy to declare personal bankruptcy.

In the United States, we believe that through hard work anyone can become a success. America's bankruptcy laws reflect a fundamental element of our nation's entrepreneurial spirit. Their intent is to ensure a fresh start for those who try and fail, and they form an important thread in our social safety net. But when some people systematically abuse a system at great expense to the rest of the population, twisting the fresh start into a free ride, Congress must step in and tighten up the law to protect those who unfairly bear the cost. When it comes to bankruptcies of convenience, that time has come.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Madam President, I ask unanimous consent—I have the impression that this is all right with the majority and minority—that I be able to proceed as in morning business to speak on the situation in Russia for up to 30 minutes, or shorter if anyone comes to the floor and wishes to resume the business of the Senate?

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

CRISIS IN RUSSIA

Mr. BIDEN. Madam President, I rise today to discuss the political and economic crisis in Russia, which poses, to state the obvious, a grave threat to the security of the United States and the entire international order. The situation in Moscow is rapidly changing, so by the time I finish these statements today, Lord only knows, something may have happened in the meantime. Things are that fluid.

Although the situation is rapidly changing, in the wake of last week's summit, five basic trends seem to be clear. First, the Yeltsin era is about to end. Second, because of structural problems in Russia's political and economic system, there is no short-term fix to Russia's economic crisis. Third, an even greater danger than an economic meltdown is the total collapse of