

Exhibit C - 151 Cong. Rec. S 2459, S2469-S2474
(March 10, 2005)

bill forward despite the President's plan. Senator ENZI's unwavering commitment in this area is unparalleled. I hope that the administration understands that our decision to make this the first major piece of education legislation that we take up this Congress is reflective of our unwavering commitment to career and technical education. We will not let this program fall by the wayside. Perkins will not be eliminated.

We often hear the pledge that we will leave no child behind. May I suggest that we also make every effort to ensure that we leave no career and technical education student behind? Passage of these important provisions today will go a long way toward ensuring that career and vocational education students are not left behind in the classroom, that they are being held to high academic standards, that their teachers are provided with the training they need to keep up to date with the latest industry needs, and that high schools, industry and higher education work seamlessly together to provide our workforce with the skills that they need to maintain America's economic dominance in the 21st century.

Career and vocational programs are an essential part of keeping students in school and helping our Nation train its workforce. I am confident that this bill will go a long way in helping another generation of Americans succeed, and, in doing so, strengthen our economy.

Mr. KENNEDY. Mr. President, I will be glad to yield back my time.

Mr. ENZI. I yield back my time.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the committee substitute is adopted and the bill will be read a third time.

The committee amendment, in the nature of a substitute, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ENZI. Mr. President, I ask unanimous consent that the next series of votes begin at 4:30 p.m. today.

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

Mr. ENZI. For the information of my colleagues, the next vote, which will begin at 4:30 p.m., will be on passage of the Perkins vocational education bill which was just debated, to be followed

by a series of rollcall votes on the remaining amendments to the bankruptcy bill, to be followed by final passage. That means there could be up to seven rollcall votes in this next series of consecutive rollcall votes. Once again, we urge Members to stay close to the Chamber during these votes to avoid missing any.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005—Continued

Mr. HATCH. Mr. President, I rise today to speak in favor of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, and to thank all of the people who made this bill possible. This bankruptcy bill has been a long time coming. We all know how bankruptcy claims have skyrocketed since the last major bankruptcy reform bill in 1978. We all know about the abuses of the system.

Well, that is about to change for the better. This bill is about fairness and accountability. We have made some important changes in this legislation. This bill contains a debtor's bill of rights with new protections that prevent bad actors from preying upon the uninformed.

The bill also includes new consumer protections under the Truth in Lending Act, such as new required disclosures regarding minimum monthly payments and introductory rates for credit cards. It protects consumers from unscrupulous creditors, with new penalties on creditors who refuse to negotiate reasonable payment schedules outside of bankruptcy.

S. 256 provides for protection of educational savings accounts, and it gives equal protection for retirement savings in bankruptcy. It helps women and children by providing a comprehensive set of protections for child and domestic support throughout the bankruptcy process.

This legislation dramatically revises the reaffirmation agreement provisions of the Code. It imposes critical disclosure requirements that will put a stop to abusive practices. It makes the provisions relating to farmers in chapter 12 permanent and broadens its provisions. It cleans up the law governing complex exchanges and thereby reduces systemic risk in our marketplace. It acts to stop abuse.

When this bill hit the floor on Monday, February 28, I mentioned that we were in the last leg of a legislative marathon. The finish line is finally in sight. I am pleased to have been a part

of this process and I am even more pleased we are able to pass this important legislation, and I anticipate that it will pass shortly. This bill has been a long time in development. I am proud of what we have been able to accomplish. Today it seems it is finally going to cross the finish line, and it is well worth it.

This bill may not lead to a severe reduction in the number of bankruptcies. I believe, though, that it will reduce the number of fraudulent and abusive filings and help educate consumers to keep their financial houses in order. This is always an important goal. No responsible society can long countenance the open flouting and abuse of its laws.

This bill, with its means test, will discourage such abusive filings by restricting access to chapter 7 liquidation by those with relatively high incomes. We should all stand behind a law that requires people with the ability to repay their debts to actually repay those debts.

Most of our debate on this bill has focused around the means test. There is no doubt that this will discourage some bankruptcy filings, but I also hope our credit counseling provisions will work to persuade even some low-income debtors that there is another way out.

Right now, too many are only hearing one part of the story: Declare bankruptcy. Liquidate your debts. Some attorneys pushing this line, however, leave out the part about the years of ruined credit that result, the inability to get a car loan or a house loan. My hope is our modest credit counseling provisions will persuade some people to stay out of bankruptcy and meet their obligations, do what is right, and keep their credit alive.

While a great majority of Senators support this bill, I know not all of my colleagues are pleased. Last night my friend from Massachusetts, Senator KENNEDY, again voiced his strong opposition to this legislation. This was probably clear from my response. I vehemently disagree with his opinions about this bill, but I hope he understands that we are trying our best.

Could we have done better? I have no doubt about that, not for a second, but I also know this bill has benefitted from some of Senator KENNEDY's suggestions over the years. We have not ignored him, and I hope he understands we appreciate his participation.

I also understand some of my colleagues feel that they may not have been treated fairly in this process. My desire throughout this process, and the desire of my colleagues who supported this bill, was always to act as an honest broker who took the suggestions of the other side with appropriate seriousness. I understand the frustration from some on the other side at the inability to get amendments agreed to or considered on the floor, but I hope they in turn can understand that we have tried our best on this side to balance all of the competing interests in this body

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medical expenses have caused the financial hardship was also defeated. Senator CORZINE also offered an amendment that would have exempted economically distressed caregivers from the means test, but that amendment was also defeated by a largely party line vote. The Republican majority even rejected Senator NELSON's common sense amendment that would have exempted victims of identity theft from the means test.

Further, the Senate defeated amendments that would have protected the homes of our elderly and people forced into bankruptcy after a medical crisis.

I am also disappointed that the Senate defeated several amendments that would have closed loopholes used by wealthy individuals seeking bankruptcy protection.

The Senate had an opportunity to close an increasingly popular loophole where the very wealthy shield millions of dollars before declaring bankruptcy by setting up so-called asset protection trusts. Senator SCHUMER proposed an amendment to put an end to this abuse of the tax system by limiting the use of these trusts to shield assets only up to \$125,000. The amendment was defeated 39 to 56.

The Republicans also rejected an amendment offered by Senator DURBIN to curtail the abusive practices of executives at companies like Enron and WorldCom who received millions of dollars in compensation shortly before the companies filed for bankruptcy protection. The chamber also defeated an amendment proposed by Senator AKAKA that would have provided credit card users with information to assist them in making more informed choices about their credit card use and repayment. This amendment would have helped consumers understand the consequences of their financial decisions, such as making only minimum payments, so that they can avoid the kind of financial pitfalls that lead to bankruptcy. Sadly, this amendment was also rejected.

The Schumer amendment, which in the past has been strongly supported on a bipartisan basis by the Senate, was stripped from the bill this year. The amendment, which provides that debts arising from violence and threats of violence could not be discharged in bankruptcy proceedings, should have been adopted by the Senate.

We do need bankruptcy reform, and I wish that the Senate had taken this opportunity to pass equitable reform. This bill does not achieve that goal and therefore I cannot support it.

Mr. GRASSLEY. Mr. President, I rise to urge my colleagues to vote for final passage of the bankruptcy reform bill. I have been working on this piece of legislation for a long time, and I am pleased to see that we are nearing the end. This bipartisan bill has been maligned by many, and I want to set the record straight. What we are trying to do is fix a bankruptcy system that has gone awry, where individuals who have

the ability to repay their debts don't do so, and the rest of us are left holding the bag.

What we have tried to do with this bill is inject some fairness into the system, whereby people who have assets and the ability to repay back their debts go into a chapter 13 repayment plan, and people who do not have any means and no ability to repay go into chapter 7. We've kept the safety net of full chapter 7 bankruptcy discharge for those who truly need it, and channeled others that can pay their creditors into a repayment plan.

This is done through a means test, which is fair and flexible enough to take into account all the unique circumstances a debtor and his family face. The means test takes into account all reasonable and necessary expenses for a debtor and his family. We provide for a court to consider "special circumstances", so that a debtor can show that he doesn't have the ability to repay, and should stay in chapter 7. The bill excludes from the means test poor people, those individuals who are below the median income. So if individuals can pay and they really don't have the ability to pay, they will continue to have their debts fully discharged in chapter 7 bankruptcy, while those who do have assets cannot hide them from their creditors and escape repayment.

Let me mention a couple of things this bill does not do. This bill doesn't put the credit card companies first or leaves hard working families out to dry, as some of the bill's detractors have claimed. In fact, the bill helps women and children and improves their situation when someone files for bankruptcy because it provides new priorities and tools so that child support and alimony will be collected before other creditors. We move child support up in priority, up to number one from number seven in line, and that means that they will be paid before a lot of other creditors, including the credit card companies. The bill makes staying current on child support a condition of discharge. We provide that debt discharge in bankruptcy is made conditional upon full payment of past due child support and alimony.

Domestic support obligations are automatically non-dischargeable, without the costs of litigation. The bill also makes payment of child support arrears a condition of plan confirmation. The bill provides better notice and more information to facilitate child support collection, and tracking down deadbeat parents. Further, the bill protects the name of a debtor's minor children from public disclosure in a bankruptcy case.

This bill also doesn't help credit card companies and other lenders take advantage of honest consumers, as some have alleged. In fact, the bankruptcy bill contains some new real and significant consumer protections. The bill requires credit card companies to make new disclosures that benefit customers and prohibits deceptive advertising of

low introductory rates. It requires credit card companies to provide key information about how much money people owe and how long it will take to payoff their credit card debt by only making a minimum payment. The bill requires lenders to prominently disclose when late fees will be imposed, the date on which introductory or teaser rates will expire, and what the permanent rate will be after that time. The bill also prohibits lenders from canceling an account because the consumer pays the balance in full each month to avoid finance charges.

The bill also provides that consumers will be given a toll-free number to call where they can get information about how long it will take to payoff their own credit card balances if they only make minimum payments on their balance. This will educate consumers about their financial situations. In addition, the bill allows for more judicial oversight of reaffirmation agreements, to protect consumers from being pressured into onerous agreements.

The bankruptcy bill also includes a debtor's bill of rights to prevent bankruptcy mills from preying upon those who are uninformed of their rights. The bill provides for penalties on creditors who refuse to renegotiate reasonable payment schedules outside of bankruptcy. The bill provides for penalties on creditors who fail to properly credit plan payments in bankruptcy. The bill strengthens enforcement and penalties against abusive creditors for predatory debt collection practices. Finally, the bill contains credit counseling programs to help consumers avoid the cycle of indebtedness.

So with the bankruptcy bill, we've tried to close loopholes in the system and eliminate abuses. We've created new consumer protections. We've made chapter 12 permanent. We've made sure that financial markets are not subject to risk. Although the bill doesn't contain everything I would have liked to include, it is a good start to putting an end to the abuses.

It has been a long haul, but I think we are finally seeing this bill through to the end. And there are many people that I'd like to thank because they've been instrumental in getting us to this point. I've been quite busy lately as chairman of the Finance Committee, working on social security, medicare and tax reform. I take that responsibility very seriously. Because of Finance Committee markup and hearing conflicts, I have had to rely on my colleagues to manage this bill on the floor. But the job has been in very good hands.

In particular, I appreciate Senator HATCH and the diligence that he has shown towards this bill. On more than one occasion, he made sure that the bankruptcy bill made it through the committee process so that we could have it considered on the floor. He has stepped up to the plate many a time to manage the bill, work on compromises, and keep the engines running. Senator

HATCH is a good friend and colleague, and I respect his perseverance as well as his legal expertise. I'm glad to see that all his hard work during the years has finally come to fruition. Senator HATCH has been a true stalwart through the years, and I thank him for his dedication to bankruptcy reform. I also want to thank his able staff, Perry Barber, Kevin O'Scanlin and Bruce Artim for all their help on this bill.

I especially want to thank Senator SESSIONS for being a tireless champion of bankruptcy reform here in the Senate. I have relied on his intellect and legal prowess for the last eight years that we've been working on this bill. I believe that Senator SESSIONS has brought a unique perspective to the bankruptcy bill with his dedication to eliminating abuses in the bankruptcy process. He is a firm believer that if you borrow money, you have to pay it back. So I truly am thankful for all the work that Senator SESSIONS has done, especially in managing this bill on the floor. He is one sharp lawyer, and I am honored to have him as my friend. I also want to thank his staff for their excellent work, in particular his talented Chief Counsel William Smith, Cindy Hayden, Amy Blankenship and Wendy Fleming.

I want to thank Chairman SPECTER for placing this bill at the top of the agenda in the Judiciary Committee, and for moving it so quickly and ably in this Congress. His staff, Harold Kim, Mike O'Neill, Ivy Johnson, Hannibal Kemmerer, Tim Strachan, Brendan Dunn and Ryan Triplette have been extremely helpful in getting the job done. I want to thank Majority Leader FRIST and his staff, Allen Hicks, Eric Ueland, Sharon Soderstrom and Dave Schiappa, as well as Senator MCCONNELL and his staff, John Abegg, Kyle Simmons, Malloy McDaniel and Brian Lewis.

I would be remiss if I didn't thank our friends on the House side, and in particular Chairman SENSENBRENNER and his staff, Phil Kiko, Susan Jensen and Ray Smietanka. Chairman SENSENBRENNER has really been a leader on bankruptcy reform, and a true driving force behind this legislation. I look forward to additional collaborations with him.

In addition, I want to thank Senator CARPER, Senator NELSON, Senator BIDEN and Senator JOHNSON. This is truly a bipartisan bill, and it couldn't have gotten done without their help.

Finally, I thank my own staff, my Finance Committee Chief of Staff and Legislative Director Kolan Davis and my Judiciary Committee Chief Counsel Rita Lari Jochum, for their hard work on the bill. I also want to thank my former staffer John McMickle, for his expertise and advice on this important piece of legislation. Good staff is hard to find, and I am proud to say that my staff is probably the best in town.

Mr. NELSON of Nebraska. Mr. President, today, I am pleased to see the passage of S. 256, the Bankruptcy Abuse Prevention and Consumer Pro-

tection Act of 2005. This bill has been under consideration in Congress since before I was elected to the Senate. Since my arrival, I have been a proponent of the goals it strives to attain to ensure that abuse of America's bankruptcy laws is curtailed and that Americans who find themselves in unanticipated financial duress and have legitimate reasons to seek bankruptcy protections will have the opportunity to do so.

The goal of the bill is to prevent certain abuses of the bankruptcy system. It includes more than five hundred pages of new and reformed law, but key provisions include the following.

First and foremost, the bill will curb abuse of the bankruptcy system by implementing a means test to ensure that those who can afford to repay some portion of their unsecured debts are required to do so. Bankruptcy petitioners with relatively high incomes could be required to file under chapter 13 instead of chapter 7, and repay some of their debt out of future income. The means test takes into account the petitioner's income, debt burden, and allowable living expenses, which can vary significantly according to the debtor's place of residence and particular circumstances. Filers who cannot afford to repay at least \$6,000 will be given unfettered access to chapter 7 liquidation proceedings.

The bill has a safeguard that will allow judges to consider extenuating circumstances in each bankruptcy case. After determining this means test calculation, the judge can then take any "special circumstances" into consideration before making a decision to shift the debtor into chapter 13. This will allow judges to consider cases where catastrophic illnesses or other unexpected financial calamities that have impacted a family or individual to the point where their debts are too heavy a load to carry. This provision made many of the amendments considered on this bill redundant.

The bill implements an important safeguard for family farmers by making permanent the extension of chapter 12 bankruptcy rules. Chapter 12 has expired every year, necessitating the need for an extension. Last year, Senator GRASSLEY and I worked in a bipartisan fashion to secure the chapter 12 extension. The bill also bumps the exemption level for family farmers from \$1.5 million to nearly \$3.24 million, which will be adjusted periodically for inflation.

The bill includes an important provision to safeguard our children. It contains provisions that strengthen the ability of women and children to collect child support and marital dissolution obligations. This provision will enable some families to continue to provide for the needs of their children.

Consumers also benefit from protection measures in this bill. By requiring new minimum payment and introductory rate disclosures for credit cards, consumers will be protected from sur-

prise fees and unexpected rate fluctuation. It also contains a 'debtor's bill of rights' requiring that bankruptcy attorneys and petition preparers disclose their services and fees for those services to consumers.

It is important to note that no American will be denied access to the bankruptcy system under these reforms. However, those trying to shield their assets while abandoning their financial responsibilities will find it much more difficult to abuse the system and leave their debts for other Americans to cover through higher interest rates and fees.

As I mentioned earlier, there were many amendments to this bill offered for consideration. As I considered each of these amendments, I measured the intended impact of each amendment on the bill. In voting against many of the amendments I did so knowing that the groups of individuals singled out by the amendments, such as veterans, individuals with chronic health problems, or military personnel, were already adequately protected in the underlying bill.

I carefully considered each amendment offered to the bill on a case by case basis to determine if the amendment improved the bill. Because I believe the bill already covered most of the issues presented in the amendments, it was my determination that many of the amendments did not improve the bill and thus, I voted against them.

Again, this bill includes a safeguard for judges to consider "special circumstances" like medical bills, deployment to war and other circumstances. In addition to this safeguard, I supported an amendment to the bill that clarified the circumstances that might be considered by a judge. That language provided specific examples a judge might consider including "a serious medical condition or a call to order to active duty in the armed forces." I voted for this amendment because it provided an improvement, in the form of clarity on special circumstances.

It is important that creditors, retailers, and small businesses who in good faith provide people with credit do not bare the brunt of the cost when debtors find themselves unable to pay. It is also critical that we protect consumers who have found themselves in unanticipated situations where their inability to meet their debts is beyond their control. And it is important to safeguard consumers against predatory lending practices.

I worked hard to find the correct balance among these competing goals on this bill and feel that the Senate did a good job in accomplishing that overriding principal. I am pleased to support this bill because I believe it provides needed improvements to our bankruptcy protection laws that will benefit every American.

Mr. AKAKA. Mr. President, I am in opposition to the bankruptcy legisla-

Comptroller of the Currency issued an advisory letter warning national banks that engaged in deceptive credit card marketing and account management practices that they would face compliance and reputation risks.

Remarkably the bill does protect the wealthiest Americans by allowing them to continue hiding their assets from creditors during bankruptcy and never making good on their debt. Senator SCHUMER offered an amendment to eliminate and end this abuse, and it was defeated. And it does not stop corporate executives from looting their companies and leaving workers, stockholders, and creditors holding the bag. How can we target middle-class families and ignore the wealthiest Americans as they hide their assets?

This bill is needlessly punitive to families. It is as if we have gone out of our way to harm and not help them. For example, when a debtor receives a bankruptcy discharge, the legislation sets up new classes of nondischargeable debt that will compete for payment along with child and family support. Senator DODD offered an amendment to enable parents to better meet the needs of their children during bankruptcy. Unfortunately, it was defeated. The credit card companies beat the kids on that vote.

This bill is not only detrimental to consumers, but it also hurts our small businesses. This effort to reform our bankruptcy laws will make it more difficult for entrepreneurs to start a small business and imposes additional regulations and reporting requirements on small businesses who file for bankruptcy.

I believe we must do everything possible to ensure the viability of small businesses and to assist in fostering entrepreneurship in our economy. Regulatory and procedural burdens should be lowered for small business wherever possible. However, the bill fails to meet this challenge. Instead, this legislation promotes additional red tape and a government bureaucracy. It imposes new technical and burdensome reporting requirements that are more stringent on small businesses than they are on big business. Further, the bill will provide creditors with greatly enhanced powers to force small businesses to liquidate their assets.

Any big business would have difficulty complying with these new burdensome reporting requirements. But think of the difficulties an entrepreneur or a mom-and-pop grocery store will have in complying with this dizzying array of new and complex requirements. These small businesses are the most likely to need, but least likely to be able to afford, the assistance of a lawyer or an accountant to comply with these new requirements. I cosponsored an amendment offered by Senator FEINGOLD to strike many of the small business provisions in the bill because they would increase reporting requirements on small businesses and

make it easier for creditors to force liquidations of small business during the bankruptcy process. Unfortunately, that amendment was not adopted.

I am pleased that an amendment sponsored by Senator COLLINS and myself which will extend chapter 12 bankruptcy protections to our family fishermen, has been included in the bill. The small, family-owned fishing businesses are in serious trouble. We are making progress in rebuilding stocks; however, the cost of this progress has been carried by fishermen working Georges Bank and the Gulf of Maine. The Collins-Kerry amendment will help ensure that fishermen have the flexibility under chapter 12 of the Bankruptcy Code to wait out the rebuilding of our commercial fish stocks without back tracking on our conservation gains to date. It will help preserve the rich New England fishing heritage in Massachusetts.

Despite some provisions, which I do believe improve the system, overall this bill does not provide bankruptcy reform. Inexcusably, this bill helps creditors without helping consumers. It will let the very rich continue to hide money in homes and trusts. It gives no relief to families hit by medical bills or other financial hardship. It even puts credit card companies ahead of children when debt is allocated to creditors. I will vote no.

Mr. SESSIONS. Mr. President, today, for me, marks the culmination of 8 long years of hard work, and I am glad we have finally reached this point, where we will not only pass this bill, but the House will do so as well and the President will sign it into law. I believe that we have eliminated some abuses with this bill. I wish we could have accomplished more, but we could not let the perfect be the enemy of the good. Let me say to my colleagues, that there are some issues like homestead and asset trusts that will come back, and I look forward to working on those, but make not mistake about it, this is a good bill and I am excited to see it pass.

The policy questions we have been addressing are these:

(1) whether bankruptcy is a necessary and permitted way to recover from overburdening debt; and

(2) when is bankruptcy being abused and used as an escape valve for individuals capable of repaying some, if not all, of their debt.

The goal of this bill has never been to create additional burdens for those who have over-extended themselves for one reason or another, but to help them achieve financial responsibility after bankruptcy, so that they can avoid similar setbacks in the future.

It is clear to me that when you have statements from debtors that they are using bankruptcy to "[take] advantage of one of the opportunities the Government offers," that the responsibility for slowing down the 1.6 millions consumer bankruptcy filings per year lies with Congress.

As we approached this bill, our goal was not to punish those who legitimately need the fresh start that bankruptcy offers. However, our goal was to disallow people from filing bankruptcy simply for the sake of taking advantage of a financial opportunity provided by the government. People who can afford to pay all or a part of their debts over a limited period of time should not get off Scot free.

Let me just for a moment, talk about the concept of bankruptcy. The term derived from the medieval Italian phrase "broken bench." Merchants would sell their wares in the marketplace from benches. If the merchant ever reached a point where he could not pay his debts, his creditors would seize all of his wares and divide it among themselves. They did not stop with the seizing of wares, however. The creditors would break the merchants' bench, to bankrupt the merchant from reopening.

Our goal under this legislation was not and we did not "break the bench." Instead of trying to prevent merchants or individuals from having a second opportunity, we accomplished just the opposite. People who need a fresh start under this bill will get one. The people who can pay some of their debts back will have to do that. Let me just highlight a few of the benefits in this bill.

First, S. 256 requires that individuals receive credit counseling prior to filing for bankruptcy. This counseling will help an individual decide if bankruptcy is the appropriate mechanism to remove debt and will help the individual understand what filing bankruptcy actually means. In many instances, the deceptive and fraudulent advertising practices of bankruptcy mills lure consumers into bankruptcy unnecessarily. Debtors should know that there are many ways to get back on their feet financially—such as entering into voluntary repayment arrangements.

To curb the practice of preying upon debtors, S. 256 establishes the Debtor's Bill of Rights. The Bill of Rights requires that debt relief organizations disclose the nature of the services they offer, explain the alternatives to filing bankruptcy, disclose the rights and obligations of debtors who file for bankruptcy, and explain the consequences of filing for bankruptcy.

Second, S. 256 establishes a means test to help determine whether people are capable of paying back a meaningful portion of their debts. This test might help the debtor avoid a Chapter 7 filing, where creditors will liquidate the individuals assets and where the debtor will have a very hard time getting creditors to extend credit to them in the future. If a debtor files under Chapter 13 and learns how to manage money under a structured repayment plan that requires some discipline, the debtor learns financial responsibility and should be able to avoid future financial turmoil. Chapter 13 bankruptcies allow debtors to keep their assets and pay back a portion of their

debts over a 5 year period. In exchange, the remaining portions of their debt are discharged and the debtor gets a fresh start.

Third, S. 256 creates new protections for consumers, especially in the area of credit cards. We require credit card companies to disclose the dangers of making only a minimum payment and we prohibit deceptive practices like advertising low introductory rates—rates used to bait and switch the credit card holder. We also require that a toll-free number be provided to consumers, where they can obtain information on how long it will take to payoff their credit card balances.

The consumer benefits of this bill are enormous. Instead of breaking the bench, this bill promotes financial responsibility. The bill vastly improves the current situation in bankruptcy for certain categories of individuals. For example, it provides special benefits to women and children, through child support and alimony, and provides parents the ability to deduct expenses such as school tuition. Make no mistake about it, while the bill provides some increased protection for unsecured creditors, it provides more protection for consumers. Logically, there is absolutely no reason to oppose it.

Mr. President, over time, many people have worked on this bill, and I would just like to take a moment to express my appreciation for their work.

First, it has been an honor to work closely with Senators GRASSLEY and HATCH to make this legislation a reality. I appreciate both of them so much and I believe they both have done yeomen's work on this bill. I thank Senator FRIST for making this bill one of his top priorities and I appreciate the leadership of Senator MCCONNELL.

I think it is appropriate that we take just a moment to express appreciation to some people who gave extraordinary effort to make this successful conclusion.

First, I note that in my office it has taken three chief counsels to get through this bill. I appreciate the hard work of Kristi Lee, my first Chief Counsel and currently a magistrate judge in the Southern District of Alabama. She did an outstanding job on this bill during the first years that this legislation was in the Senate. I also appreciate the work of my former Chief Counsel Ed Haden, who is currently doing appellate litigation at one of Alabama's outstanding law firms, Balch and Bingham. While I also appreciate the work of my current Chief Counsel, William Smith, and legislative counsels Amy Blankenship and Wendy Fleming for their efforts in this endeavor, my Deputy Chief Counsel Cindy Hayden has really given an extraordinary effort on this bill.

These fine staffers have worked night and day for two weeks to guide this bill to passage. William Smith has given every ounce of his strength to successful passage. He deserves particular praise.

Additionally, I appreciate the work of Lloyd Peeples, a former counsel of mine who has clerked for a bankruptcy judge and now serves as an AUSA in the Northern District of Alabama. He provided invaluable assistance on this bill.

Sean Costello, a former counsel of mine who now works for the Office of Justice Programs at the Department of Justice, provided outstanding work to help make this bill a reality.

Brad Harris, a former counsel of mine who now works for the Burr and Forman firm in Birmingham, never failed in working long hours and providing key assistance in seeing this bill through.

And finally, Brent Herrin, my former counsel who worked hard on cram down and other issues, did outstanding work. Brent practices tax law for the Deloitte Touche firm in Atlanta.

For eight years, these lawyers have all worked on this legislation. I know they are happy to see it come to a conclusion. I am too.

In the past I have thanked the former staffers from other offices that have worked on this bill, I will not name them individually today, save John McMickle who served Senator GRASSLEY and played a major role in helping to craft this bill. John believes in the underlying principles in this bill and I appreciate his work.

I also want to thank Rita Lari Jochum, Senator GRASSLEY's current Chief Counsel. I have seen very few staffers with her drive and dedication and she is to be commended for her efforts on this bill. Her good demeanor has been a source of calm in the storm.

I appreciate the work Perry Barber, Brendan Dunn, Kevin O'Scannlain, and Bruce Artim of Senator HATCH's staff, and the work of Harold Kim, Ivy Johnson, Tim Strachman, Mike O'Neill, Hannibal Kemmerer and Ryan Triplette of Senator SPECTER's staff.

I must also thank Dave Schiappa, Allen Hicks, Eric Ueland, Sharon Soderstrom, John Abegg, Kyle Simmons, Malloy McDaniel and Brian Lewis from the Leadership staffs of Senators FRIST and MCCONNELL, all who have provided tremendous assistance along the way in shaping this bill into its final form.

Mr. President, I also want to thank Chairman SENSENBRENNER and his staff for their remarkable work in getting this bill done. Phil Kilko and Susan Jensen did outstanding work on this bill.

I thank the senior Senator from Alabama, Senator SHELBY, for his work on this bill. He guarded his banking jurisdiction like a roaring lion.

This is a great day, Mr. President. I thank the Chair and yield the floor.

Mr. FRIST. Mr. President, the Senate will soon vote on final passage of the bankruptcy reform bill. This bill constitutes the most sweeping overhaul of bankruptcy law in 25 years. Like class action, bankruptcy reform curbs abuse of the legal system. I am

hopeful that it will pass with a strong bipartisan vote.

Bankruptcy reform has long been in the works. Similar bills have passed the Senate in the 105th, the 106th, and 107th Congresses. Today, in the 109th we will finally deliver a package that restores fairness and personal responsibility to the bankruptcy system.

The House has agreed to take up the legislation, pass it quickly, and send it to the President for his signature.

I thank my colleagues for their hard work and leadership. In particular, I would like to thank: Senator MCCONNELL, a good friend and counselor, who has made sure that we have the votes on every amendment and who has helped secure final passage; Senator GRASSLEY, the bill's lead sponsor, who has been a tireless advocate for bankruptcy reform for nearly a decade; Chairman SPECTER, who skillfully led the bill through Committee; Senator HATCH, who, as a floor manager, has led on the substance of each and every amendment; and Senator SESSIONS, who has led debate on the floor again and again, and who lent his expertise to explain the finer points of the law.

Like class action, the bankruptcy reform bill is another example of bipartisan cooperation. Nearly every vote on every amendment has been bipartisan. Our work has been a great example of how thoughtful, bipartisan negotiation can deliver meaningful solutions for the American people.

America has always been a place for second chances. As Americans, we value innovation, reinvention and risk taking. It's part of our national DNA, part of why we are so spectacularly successful. It's also why America has long supported generous bankruptcy law. We recognize that sometimes people get in over their head, or are hit with an unexpected set back, and they need a fresh start, a second chance.

Congress has passed, and courts have upheld, Federal bankruptcy laws for over 100 years. The Constitution gives Congress the express power to "establish uniform laws on the subject of bankruptcies throughout the United States."

As the Supreme Court has stated, "One of the primary purposes of the Bankruptcy Act is to give debtors a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt."

Unfortunately, however, the system has veered away from its original positive intent. In the past two decades, bankruptcies have skyrocketed—actually accelerating during the economic boom years of the 80's and 90's.

Last year, we reached an historic high of over 1.6 million filings per year. The total number of bankruptcies more than doubled during the 1980's and then doubled again from 1990 to 2003. Personal bankruptcies outnumber business bankruptcies by a multiple of more than 45.

We all pay the price for these bankruptcy filings. Every bill you and I pay

debts over a 5 year period. In exchange, the remaining portions of their debt are discharged and the debtor gets a fresh start.

Third, S. 256 creates new protections for consumers, especially in the area of credit cards. We require credit card companies to disclose the dangers of making only a minimum payment and we prohibit deceptive practices like advertising low introductory rates—rates used to bait and switch the credit card holder. We also require that a toll-free number be provided to consumers, where they can obtain information on how long it will take to payoff their credit card balances.

The consumer benefits of this bill are enormous. Instead of breaking the bench, this bill promotes financial responsibility. The bill vastly improves the current situation in bankruptcy for certain categories of individuals. For example, it provides special benefits to women and children, through child support and alimony, and provides parents the ability to deduct expenses such as school tuition. Make no mistake about it, while the bill provides some increased protection for unsecured creditors, it provides more protection for consumers. Logically, there is absolutely no reason to oppose it.

Mr. President, over time, many people have worked on this bill, and I would just like to take a moment to express my appreciation for their work.

First, it has been an honor to work closely with Senators GRASSLEY and HATCH to make this legislation a reality. I appreciate both of them so much and I believe they both have done yeomen's work on this bill. I thank Senator FRIST for making this bill one of his top priorities and I appreciate the leadership of Senator MCCONNELL.

I think it is appropriate that we take just a moment to express appreciation to some people who gave extraordinary effort to make this successful conclusion.

First, I note that in my office it has taken three chief counsels to get through this bill. I appreciate the hard work of Kristi Lee, my first Chief Counsel and currently a magistrate judge in the Southern District of Alabama. She did an outstanding job on this bill during the first years that this legislation was in the Senate. I also appreciate the work of my former Chief Counsel Ed Haden, who is currently doing appellate litigation at one of Alabama's outstanding law firms, Balch and Bingham. While I also appreciate the work of my current Chief Counsel, William Smith, and legislative counsels Amy Blankenship and Wendy Fleming for their efforts in this endeavor, my Deputy Chief Counsel Cindy Hayden has really given an extraordinary effort on this bill.

These fine staffers have worked night and day for two weeks to guide this bill to passage. William Smith has given every ounce of his strength to successful passage. He deserves particular praise.

Additionally, I appreciate the work of Lloyd Peebles, a former counsel of mine who has clerked for a bankruptcy judge and now serves as an AUSA in the Northern District of Alabama. He provided invaluable assistance on this bill.

Sean Costello, a former counsel of mine who now works for the Office of Justice Programs at the Department of Justice, provided outstanding work to help make this bill a reality.

Brad Harris, a former counsel of mine who now works for the Burr and Forman firm in Birmingham, never failed in working long hours and providing key assistance in seeing this bill through.

And finally, Brent Herrin, my former counsel who worked hard on cram down and other issues, did outstanding work. Brent practices tax law for the Deloitte Touche firm in Atlanta.

For eight years, these lawyers have all worked on this legislation. I know they are happy to see it come to a conclusion. I am too.

In the past I have thanked the former staffers from other offices that have worked on this bill. I will not name them individually today, save John McMickle who served Senator GRASSLEY and played a major role in helping to craft this bill. John believes in the underlying principles in this bill and I appreciate his work.

I also want to thank Rita Lari Jochum, Senator GRASSLEY's current Chief Counsel. I have seen very few staffers with her drive and dedication and she is to be commended for her efforts on this bill. Her good demeanor has been a source of calm in the storm.

I appreciate the work Perry Barber, Brendan Dunn, Kevin O'Scannlain, and Bruce Artim of Senator HATCH's staff, and the work of Harold Kim, Ivy Johnson, Tim Strachman, Mike O'Neill, Hannibal Kemmerer and Ryan Triplette of Senator SPECTER's staff.

I must also thank Dave Schiappa, Allen Hicks, Eric Ueland, Sharon Soderstrom, John Abegg, Kyle Simmons, Malloy McDaniel and Brian Lewis from the Leadership staffs of Senators FRIST and MCCONNELL, all who have provided tremendous assistance along the way in shaping this bill into its final form.

Mr. President, I also want to thank Chairman SENSENBRENNER and his staff for their remarkable work in getting this bill done. Phil Kilko and Susan Jensen did outstanding work on this bill.

I thank the senior Senator from Alabama, Senator SHELLEY, for his work on this bill. He guarded his banking jurisdiction like a roaring lion.

This is a great day, Mr. President. I thank the Chair and yield the floor.

Mr. FRIST. Mr. President, the Senate will soon vote on final passage of the bankruptcy reform bill. This bill constitutes the most sweeping overhaul of bankruptcy law in 25 years. Like class action, bankruptcy reform curbs abuse of the legal system. I am

hopeful that it will pass with a strong bipartisan vote.

Bankruptcy reform has long been in the works. Similar bills have passed the Senate in the 105th, the 106th, and 107th Congresses. Today, in the 109th we will finally deliver a package that restores fairness and personal responsibility to the bankruptcy system.

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includes a hidden "bankruptcy tax" of \$400 per year per household. That tax is figured into in every phone bill, electrical bill, mortgage payment, furniture purchase, or car loan we pay.

For many people, bankruptcy has become a first step rather than a last resort. Opportunistic debtors who have the means to repay use the law to evade personal responsibility. In some cases, they even plan their bankruptcy, buying a mortgage and running up credit cards and then declaring they're broke.

With this bill, we are putting an end to the abuse. Wealthy debtors who have the means to pay some, or all, of their debt will be required to do so.

The bankruptcy bill establishes a means test based on a simple, fair principle: those who have the means should repay their debts. The legislation specifically exempts from consideration anyone who earns less than the median income in their state. It allows every filer to show "special circumstances" if they cannot handle a repayment plan.

And it makes clear that active duty military, low income Veterans, and debtors with serious medical conditions are protected by these safe harbor provisions.

But for those individuals who are abusing the system, they will no longer be able to hide behind the law. Nor will they be able to duck their family responsibilities. These new reforms make child support a high priority.

Most people who get into financial trouble want to do the right thing. They want to make good on their obligations and pay what they owe. But they are in over their head and need a fresh start. This legislation will not affect the vast majority of these filers. What it will do is close loopholes that have let unscrupulous debtors slip through.

Today's impending vote is a victory for fairness, compassion and common sense. It took eight years, but we are finally here.

I applaud my colleagues for their leadership. Together with class action reform, we are returning fairness and common sense to the legal system.

When the legal system gets off track, it affects us all, consumers, creators, and innovators alike. Jobs are lost. Prices go up. We pay in big and small ways. By reforming the system, we strengthen our ability to grow. We keep America moving forward.

I look forward to tackling other lawsuit abuse issues including gun manufacturer liability, medical liability, and asbestos reform. I am hopeful that we will continue to work together delivering meaningful solutions to the American people.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. CRAIG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—74

Alexander	DeMint	McCain
Allard	DeWine	McConnell
Allen	Dole	Murkowski
Baucus	Domenici	Nelson (FL)
Bayh	Ensign	Nelson (NE)
Bennett	Enzi	Pryor
Biden	Frist	Reid
Bingaman	Graham	Roberts
Bond	Grassley	Salazar
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Burr	Hutchinson	Smith
Byrd	Inhofe	Snowe
Carper	Inouye	Specter
Chafee	Isakson	Stabenow
Chambliss	Jeffords	Stevens
Coburn	Johnson	Sununu
Cochran	Kohl	Talent
Coleman	Kyl	Thomas
Collins	Landrieu	Thune
Conrad	Lincoln	Vitter
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	Martinez	

NAYS—25

Akaka	Feinstein	Murray
Boxer	Harkin	Obama
Cantwell	Kennedy	Reed
Corzine	Kerry	Rockefeller
Dayton	Lautenberg	Sarbanes
Dodd	Leahy	Schumer
Dorgan	Levin	Wyden
Durbin	Lieberman	
Feingold	Mikulski	

NOT VOTING—1

Clinton

The bill (S. 256), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. HATCH. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

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

MORNING BUSINESS

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

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

Mr. BIDEN. Mr. President, I rise for two purposes. The first is to draw attention to a recent program at the Supreme Court on the work of Justice Robert Jackson and Thomas Dodd, the father of Senator CHRISTOPHER J. DODD, dealing with the International Military Tribunals at Nuremberg. I was happy to read the remarks of my colleague, Senator DODD, at the event, and I was interested to find that many of the conclusions he draws from his father's experiences remain essential to our conduct of international justice today—and, unfortunately, they are all too often forgotten.

I would first echo the remarks made by Senator DODD and salute the extraordinary work performed by Justice Robert Jackson and Thomas Dodd in their roles as the U.S. Chief Prosecutor and Deputy Prosecutor, respectively, at Nuremberg over 50 years ago.

The Nuremberg Tribunal taught us many lessons: that even in the depths of war, justice is not blind; that those who practice terror, oppression, hatred, and mass murder will be punished. Perhaps equally important, however, was the notion that they should also be afforded a trial. Indeed, the United States committed itself to overcoming the passions of the moment and reaffirming the rule of law. I believe this action set an important precedent that is still applicable today.

Critically, the Tribunal also helped record the horrific crimes of the Nazi regime so the whole world would see the brutality and understand the depravity of those unimaginable acts.

Unfortunately, crimes against humanity have occurred since the Nuremberg Tribunals, and they continue to occur today in places such as Darfur in Sudan. I believe that it is again necessary to remind ourselves of the important lessons learned over 50 years ago when Justice Robert Jackson and then Thomas Dodd—soon to be Senator Thomas Dodd—brought before the world the evidence of Nazi atrocities and said, "This cannot stand."

I ask unanimous consent that the remarks of Senator DODD at the Supreme Court on February 15, 2005, entitled, "Justice Served, Lessons Learned: Robert Jackson, Thomas Dodd and the Nuremberg Trials," be printed in the RECORD following my comments here today.

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

(See exhibit 1.)

Mr. BIDEN. Mr. President, I encourage my colleagues to take the time to read this speech and consider this important message and its application today.

EXHIBIT 1

JUSTICE SERVED, LESSONS LEARNED: ROBERT JACKSON, THOMAS DODD, AND THE NUREMBERG TRIALS

It's a privilege to be with you in the Supreme Court Chamber, where cases that have changed the course of our nation's history have been argued and decided.