

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

UNANIMOUS-CONSENT AGREEMENT—AMENDMENT NO. 3554 TO S. 2237

Mr. LOTT. Mr. President, we have had a good deal of discussion about how to proceed tomorrow with regard to campaign finance reform, and I think we have something worked out here that is acceptable to all sides. I hoped there would be more time for Senator MCCAIN and others to discuss the issue tomorrow, but there are some conflicts that we are trying to recognize and accommodate.

So I ask unanimous consent that at 10 a.m. on Thursday, the Senate resume the pending McCain amendment, and the time between 10 a.m. and 12 noon be equally divided in the usual form for debate only. I further ask unanimous consent that at 12 noon Senator FEINGOLD be recognized to offer a motion to table the pending amendment.

I further ask unanimous consent that if the amendment is not tabled, the time prior to 1:45 p.m. on Thursday be equally divided in the usual form for debate only, and notwithstanding rule XXII, the cloture vote occur at 1:45 p.m. on Thursday.

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

CONSUMER BANKRUPTCY REFORM ACT OF 1998—MOTION TO PROCEED

Mr. LOTT. Mr. President, I also just discussed with Senator DASCHLE the possibilities of working out a procedure that we could take up the bankruptcy reform, allow for amendments to be offered, and get some sort of understanding about what those amendments would be and the time that might be involved. There are a number of Senators who are interested in this legislation on both sides of the aisle—Senator GRASSLEY obviously, Senator HATCH, Senator DURBIN; Senator KENNEDY has an amendment he wants to offer.

I had not seen any movement earlier than this afternoon toward working something out, but I believe now that there will be a good-faith effort to see if we can work out some sort of agreement that we will come together on tomorrow. But so that we can get the matter laid down in the proper way, and so that there can be protections for all concerned until we get an agreement worked out, I want to go ahead and do this procedure. But if we get an agreement worked out, obviously I would move to vitiate it. I really would like to get bankruptcy reform done, but I think we need some sort of reasonable agreement in order to accomplish that and in order to not go forward with the cloture vote.

So I understand that there is no further need for debate on the pending motion, and I ask the Chair to put the question.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

CONSUMER BANKRUPTCY REFORM ACT OF 1998

The PRESIDING OFFICER. The clerk will report the bill.

The bill clerk read as follows:

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

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “Consumer Bankruptcy Reform Act of 1998”.

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.

Sec. 102. Dismissal or conversion.

TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR CONSUMERS

Sec. 201. Allowance of claims or interests.

Sec. 202. Exceptions to discharge.

Sec. 203. Effect of discharge.

Sec. 204. Automatic stay.

Sec. 205. Discharge.

Sec. 206. Discouraging predatory lending practices.

TITLE III—IMPROVED PROCEDURES FOR EFFICIENT ADMINISTRATION OF THE BANKRUPTCY SYSTEM

Sec. 301. Notice of alternatives.

Sec. 302. Fair treatment of secured creditors under chapter 13.

Sec. 303. Discouragement of bad faith repeat filings.

Sec. 304. Timely filing and confirmation of plans under chapter 13.

Sec. 305. Application of the code debtor stay only when the stay protects the debtor.

Sec. 306. Improved bankruptcy statistics.

Sec. 307. Audit procedures.

Sec. 308. Creditor representation at first meeting of creditors.

Sec. 309. Fair notice for creditors in chapter 7 and 13 cases.

Sec. 310. Stopping abusive conversions from chapter 13.

Sec. 311. Prompt relief from stay in individual cases.

Sec. 312. Dismissal for failure to timely file schedules or provide required information.

Sec. 313. Adequate time for preparation for a hearing on confirmation of the plan.

Sec. 314. Discharge under chapter 13.

Sec. 315. Nondischargeable debts.

Sec. 316. Credit extensions on the eve of bankruptcy presumed nondischargeable.

Sec. 317. Definition of household goods and antiques.

Sec. 318. Relief from stay when the debtor does not complete intended surrender of consumer debt collateral.

Sec. 319. Adequate protection of lessors and purchase money secured creditors.

Sec. 320. Limitation.

Sec. 321. Miscellaneous improvements.

Sec. 322. Bankruptcy judgeships.

Sec. 323. Preferred payment of child support in chapter 7 proceedings.

Sec. 324. Preferred payment of child support in chapter 13 proceedings.

Sec. 325. Payment of child support required to obtain a discharge in chapter 13 proceedings.

Sec. 326. Child support and alimony collection.

Sec. 327. Nondischargeability of certain debts for alimony, maintenance, and support.

Sec. 328. Enforcement of child and spousal support.

Sec. 329. Dependent child defined.

TITLE IV—TECHNICAL CORRECTIONS

Sec. 401. Definitions.

Sec. 402. Adjustment of dollar amounts.

Sec. 403. Extension of time.

Sec. 404. Who may be a debtor.

Sec. 405. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.

Sec. 406. Limitation on compensation of professional persons.

Sec. 407. Special tax provisions.

Sec. 408. Effect of conversion.

Sec. 409. Automatic stay.

Sec. 410. Amendment to table of sections.

Sec. 411. Allowance of administrative expenses.

Sec. 412. Priorities.

Sec. 413. Exemptions.

Sec. 414. Exceptions to discharge.

Sec. 415. Effect of discharge.

Sec. 416. Protection against discriminatory treatment.

Sec. 417. Property of the estate.

Sec. 418. Limitations on avoiding powers.

Sec. 419. Preferences.

Sec. 420. Postpetition transactions.

Sec. 421. Technical amendment.

Sec. 422. Setoff.

Sec. 423. Disposition of property of the estate.

Sec. 424. General provisions.

Sec. 425. Appointment of elected trustee.

Sec. 426. Abandonment of railroad line.

Sec. 427. Contents of plan.

Sec. 428. Discharge under chapter 12.

Sec. 429. Extensions.

Sec. 430. Bankruptcy cases and proceedings.

Sec. 431. Knowing disregard of bankruptcy law or rule.

Sec. 432. Effective date; application of amendments.

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting “or consents to” after “requests”.

SEC. 102. DISMISSAL OR CONVERSION.

(a) *IN GENERAL.*—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§ 707. Dismissal of a case or conversion to a case under chapter 13”;

and

(2) in subsection (b)—

(A) by inserting “(1)” after “(b)”;

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking “but not” and inserting “or”;

(II) by inserting “, or, with the debtor’s consent, convert such a case to a case under chapter 13 of this title,” after “consumer debts”;

(III) by striking “substantial abuse” and inserting “abuse”;

(ii) by striking the last sentence and inserting the following:

“(2) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall consider whether—

“(A) under section 1325(b)(1), on the basis of the current income of the debtor, the debtor could pay an amount greater than or equal to 20 percent of unsecured claims that are not considered to be priority claims (as determined under subchapter I of chapter 5); or

“(B) the debtor filed a petition for the relief in bad faith.

“(3)(A) If a panel trustee appointed under section 586(a)(1) of title 28 brings a motion for dismissal or conversion under this subsection and the court grants that motion and finds that the action of the counsel for the debtor in filing under this chapter was not substantially justified, the court shall order the counsel for the debtor to reimburse the trustee for all reasonable costs in prosecuting the motion, including reasonable attorneys’ fees.

“(B) If the court finds that the attorney for the debtor violated Rule 9011, at a minimum, the court shall order—

“(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and
“(ii) the payment of the civil penalty to the panel trustee or the United States trustee.

“(C) In the case of a petition referred to in subparagraph (B), the signature of an attorney shall constitute a certificate that the attorney has—

“(i) performed a reasonable investigation into the circumstances that gave rise to the petition; and

“(ii) determined that the petition—

“(I) is well grounded in fact; and

“(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1) of this subsection.

“(4)(A) Except as provided in subparagraph (B), the court may award a debtor all reasonable costs in contesting a motion brought by a party in interest (other than a panel trustee) under this subsection (including reasonable attorneys’ fees) if—

“(i) the court does not grant the motion; and

“(ii) the court finds that—

“(I) the position of the party that brought the motion was not substantially justified; or

“(II) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

“(B) A party in interest that has a claim of an aggregate amount less than \$1,000 shall not be subject to subparagraph (A).

“(5) However, a party in interest may not bring a motion under this section if the debtor and the debtor’s spouse combined, as of the date of the order for relief, have current monthly total income equal to or less than the national median household monthly income calculated on a monthly basis for a household of equal size. However, for a household of more than 4 individuals, the median income shall be that of a household of 4 individuals plus \$583 for each additional member of that household.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

“707. Dismissal of a case or conversion to a case under chapter 13.”

TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR CONSUMERS

SEC. 201. ALLOWANCE OF CLAIMS OR INTERESTS.

Section 502 of title 11, United States Code, is amended by adding at the end the following:

“(k)(1) The court may award the debtor reasonable attorneys’ fees and costs if, after an objection is filed by a debtor, the court—

“(A)(i) disallows the claim; or

“(ii) reduces the claim by an amount greater than 20 percent of the amount of the initial claim filed by a party in interest; and

“(B) finds the position of the party filing the claim is not substantially justified.

“(2) If the court finds that the position of a claimant under this section is not substantially justified, the court may, in addition to awarding a debtor reasonable attorneys’ fees and costs under paragraph (1), award such damages as may be required by the equities of the case.”

SEC. 202. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(A), by striking “a false representation” and inserting “a material false representation upon which the defrauded person justifiably relied”; and

(2) by striking subsection (d) and inserting the following:

“(d)(1) Subject to paragraph (3), if a creditor requests a determination of dischargeability of a consumer debt under this section and that debt is discharged, the court shall award the debtor reasonable attorneys’ fees and costs.

“(2) In addition to making an award to a debtor under paragraph (1), if the court finds that the position of a creditor in a proceeding covered under this section is not substantially justified, the court may award reasonable attorneys’ fees and costs under paragraph (1) and such damages as may be required by the equities of the case.

“(3)(A) A creditor may not request a determination of dischargeability of a consumer debt under subsection (a)(2) if—

“(i) before the filing of the petition, the debtor made a good faith effort to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and

“(ii) that creditor refused to negotiate an alternative payment schedule, and that refusal was not reasonable.

“(B) For purposes of this paragraph, the debtor or shall have the burden of proof of establishing that—

“(i) an offer made by that debtor under subparagraph (A)(i) was reasonable; and

“(ii) the refusal to negotiate by the creditor involved to was not reasonable.”

SEC. 203. EFFECT OF DISCHARGE.

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

“(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title) in the manner required by the plan (including crediting the amounts required under the plan) shall constitute a violation of an injunction under subsection (a)(2).

“(j) An individual who is injured by the failure of a creditor to comply with the requirements for a reaffirmation agreement under subsections (c) and (d), or by any willful violation of the injunction under subsection (a)(2), shall be entitled to recover—

“(1) the greater of—

“(A)(i) the amount of actual damages; multiplied by

“(ii) 3; or

“(B) \$5,000; and

“(2) costs and attorneys’ fees.”

SEC. 204. AUTOMATIC STAY.

Section 362(h) of title 11, United States Code, is amended to read as follows:

“(h)(1) An individual who is injured by any willful violation of a stay provided in this section shall be entitled to recover—

“(A) actual damages; and

“(B) reasonable costs, including attorneys’ fees.

“(2) In addition to recovering actual damages, costs, and attorneys’ fees under paragraph (1), an individual described in paragraph (1) may recover punitive damages in appropriate circumstances.”

SEC. 205. DISCHARGE.

Section 727 of title 11, United States Code, is amended—

(1) in subsection (c), by adding at the end the following:

“(3)(A) A creditor may not request a determination of dischargeability of a consumer debt under subsection (a) if—

“(i) before the filing of the petition, the debtor made a good faith effort to negotiate a reason-

able alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and

“(ii) that creditor refused to negotiate an alternative payment schedule, and that refusal was not reasonable.

“(B) For purposes of this paragraph, the debtor or shall have the burden of proof of establishing that—

“(i) an offer made by that debtor under subparagraph (A)(i) was reasonable; and

“(ii) the refusal to negotiate by the creditor involved to was not reasonable.”

(2) by adding at the end the following:

“(f)(1) The court may award the debtor reasonable attorneys’ fees and costs in any case in which a creditor files a motion to deny relief to a debtor under this section and that motion—

“(A) is denied; or

“(B) is withdrawn after the debtor has replied.

“(2) If the court finds that the position of a party filing a motion under this section is not substantially justified, the court may assess against the creditor such damages as may be required by the equities of the case.”

SEC. 206. DISCOURAGING PREDATORY LENDING PRACTICES.

Section 502(b) of title 11, United States Code, is amended—

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

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

(3) by adding at the end the following:

“(10) the claim is based on a secured debt if the creditor has failed to comply with the requirements of subsection (a), (b), (c), (d), (e), (f), (g), (h), or (i) of section 129 of the Truth in Lending Act (15 U.S.C. 1639).”

TITLE III—IMPROVED PROCEDURES FOR EFFICIENT ADMINISTRATION OF THE BANKRUPTCY SYSTEM

SEC. 301. NOTICE OF ALTERNATIVES.

(a) IN GENERAL.—Section 342 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, that individual shall be given or obtain (as required in section 521(a)(1), as part of the certification process under subchapter 1 of chapter 5) a written notice prescribed by the United States trustee for the district in which the petition is filed pursuant to section 586 of title 28. The notice shall contain the following:

“(1) A brief description of chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters.

“(2) A brief description of services that may be available to that individual from an independent nonprofit debt counseling service.

“(3)(A) The name, address, and telephone number of each nonprofit debt counseling service with an office located in the district in which the petition is filed, if any.

“(B) Any nonprofit debt counseling service described in subparagraph (A) that has registered with the clerk of the bankruptcy court on or before December 10 of the preceding year shall be included in the list referred to in that clause, unless the chief bankruptcy judge of the district involved, after giving notice to the debt counseling service and the United States trustee and opportunity for a hearing, orders, for good cause, that a particular debt counseling service shall not be so listed.”

(b) DEBTOR’S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting “(a)” before “The debtor shall—”; and

(2) by striking paragraph (1) and inserting the following:

“(1) file—

“(A) a list of creditors; and

“(B) unless the court orders otherwise—

“(i) a schedule of assets and liabilities;

“(ii) a schedule of current income and current expenditures;

“(iii) a statement of the debtor’s financial affairs and, if applicable, a certificate—

“(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition pursuant to section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b); or

“(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

“(iv) copies of any Federal tax returns, including any schedules or attachments, filed by the debtor for the 3-year period preceding the order for relief;

“(v) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days prior to the filing of the petition;

“(vi) a statement of the amount of projected monthly net income, itemized to show how calculated; and

“(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;” and

(3) by adding at the end the following:

“(b)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case and the court shall make those documents available to the creditor who requests those documents.

“(2) At any time, a creditor, in a case under chapter 13, may file with the court notice that the creditor requests the plan filed by the debtor in the case and the court shall make that plan available to the creditor who requests that plan.

“(c) An individual debtor in a case under chapter 7 or 13 shall file with the court—

“(1) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

“(2) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order for relief;

“(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

“(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor’s income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

“(A) beginning on the date that is the later of 90 days after the close of the debtor’s tax year or 1 year after the order for relief, unless a plan has been confirmed; and

“(B) thereafter, on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

“(d)(1) A statement referred to in subsection (c)(4) shall disclose—

“(A) the amount and sources of income of the debtor;

“(B) the identity of any persons responsible with the debtor for the support of any dependents of the debtor; and

“(C) the identity of any persons who contributed, and the amount contributed, to the household in which the debtor resides.

“(2) The tax returns, amendments, and statement of income and expenditures described in paragraph (1) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for in-

spection and copying, subject to the requirements of subsection (e).

“(e)(1) Not later than 30 days after the date of enactment of the Consumer Bankruptcy Reform Act of 1998, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

“(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

“(3) Not later than 1 year after the date of enactment of the Consumer Bankruptcy Reform Act of 1998, the Director of the Administrative Office of the United States Courts shall prepare, and submit to Congress a report that—

“(A) assesses the effectiveness of the procedures under paragraph (1); and

“(B) if appropriate, includes proposed legislation—

“(i) to further protect the confidentiality of tax information; and

“(ii) to provide penalties for the improper use by any person of the tax information required to be provided under this section.”.

(c) TITLE 28.—Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (6), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(7) on or before January 1 of each calendar year, and also not later than 30 days after any change in the nonprofit debt counseling services registered with the bankruptcy court, prescribe and make available on request the notice described in section 342(b)(3) of title 11 for each district included in the region.”.

SEC. 302. FAIR TREATMENT OF SECURED CREDITORS UNDER CHAPTER 13.

(a) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking the matter preceding subparagraph (A) and inserting the following:

“(5) with respect to an allowed claim provided for by the plan that is secured under applicable nonbankruptcy law by reason of a lien on property in which the estate has an interest or is subject to a setoff under section 553—; and

(2) by adding at the end of the subsection the following flush sentence:

“For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph.”.

(b) PAYMENT OF HOLDERS OF CLAIMS SECURED BY LIENS.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

“(B)(i) the plan provides that the holder of such claim retain the lien securing such claim until the debt that is the subject of the claim is fully paid for, as provided under the plan; and”.

(c) DETERMINATION OF SECURED STATUS.—Section 506 of title 11, United States Code, is amended by adding at the end the following:

“(e) Subsection (a) shall not apply to an allowed claim to the extent attributable in whole or in part to the purchase price of personal property acquired by the debtor during the 90-day period preceding the date of filing of the petition.”.

SEC. 303. DISCOUNTING OF BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) by inserting “(1)” before “Except as”;

(2) by striking “(1) the stay” and inserting “(A) the stay”;

(3) by striking “(2) the stay” and inserting “(B) the stay”;

(4) by striking “(A) the time” and inserting “(i) the time”;

(5) by striking “(B) the time” and inserting “(ii) the time”; and

(6) by adding at the end the following:

“(2) Except as provided in subsections (d) through (f), the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case if—

“(A) a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13; and

“(B) a single or joint case of that debtor (other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)) was pending during the preceding year but was dismissed.

“(3) If a party in interest so requests, the court may extend the stay in a particular case with respect to 1 or more creditors (subject to such conditions or limitations as the court may impose) after providing notice and a hearing completed before the expiration of the 30-day period described in paragraph (2) only if the party in interest demonstrates that the filing of the later case is in good faith with respect to the creditors to be stayed.

“(4) A case shall be presumed to have not been filed in good faith (except that such presumption may be rebutted by clear and convincing evidence to the contrary)—

“(A) with respect to the creditors involved, if—

“(i) more than 1 previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was pending during the 1-year period described in paragraph (1);

“(ii) a previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was dismissed within the period specified in paragraph (2) after—

“(I) the debtor, after having received from the court a request to do so, failed to file or amend the petition or other documents as required by this title; or

“(II) the debtor, without substantial excuse, failed to perform the terms of a plan that was confirmed by the court; or

“(iii)(I) during the period commencing with the dismissal of the next most previous case under chapter 7, 11, or 13 there has not been a substantial change in the financial or personal affairs of the debtor;

“(II) if the case is a chapter 7 case, there is no other reason to conclude that the later case will be concluded with a discharge; or

“(III) if the case is a chapter 11 or 13 case, there is not a confirmed plan that will be fully performed; and

“(B) with respect to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor, if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay with respect to actions of that creditor.

“(5)(A) If a request is made for relief from the stay under subsection (a) with respect to real or personal property of any kind, and the request is granted in whole or in part, the court may, in addition to making any other order under this subsection, order that the relief so granted shall be in rem either—

“(i) for a definite period of not less than 1 year; or

“(ii) indefinitely.

“(B)(i) After an order is issued under subparagraph (A), the stay under subsection (a) shall not apply to any property subject to such an in rem order in any case of the debtor.

“(ii) If an in rem order issued under subparagraph (A) so provides, the stay shall, in addition to being inapplicable to the debtor involved, not apply with respect to an entity under this title if—

“(I) the entity had reason to know of the order at the time that the entity obtained an interest in the property affected; or

“(II) the entity was notified of the commencement of the proceeding for relief from the stay, and at the time of the notification, no case in which the entity was a debtor was pending.

“(6) For purposes of this section, a case is pending during the period beginning with the issuance of the order for relief and ending at such time as the case involved is closed.”.

SEC. 304. TIMELY FILING AND CONFIRMATION OF PLANS UNDER CHAPTER 13.

(a) FILING OF PLAN.—Section 1321 of title 11, United States Code, is amended to read as follows:

“§1321. Filing of plan

“The debtor shall file a plan not later than 90 days after the order for relief under this chapter, except that the court may extend such period if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.”.

(b) CONFIRMATION OF HEARING.—Section 1324 of title 11, United States Code, is amended by adding at the end the following: “That hearing shall be held not later than 45 days after the filing of the plan, unless the court, after providing notice and a hearing, orders otherwise.”.

SEC. 305. APPLICATION OF THE CODEBTROR STAY ONLY WHEN THE STAY PROTECTS THE DEBTOR.

Section 1301(b) of title 11, United States Code, is amended—

(1) by inserting “(I)” after “(b)”;

(2) by adding at the end the following:

“(2)(A) Notwithstanding subsection (c) and except as provided in subparagraph (B), in any case in which the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) shall apply to that creditor for a period not to exceed 30 days beginning on the date of the order for relief, to the extent the creditor proceeds against—

“(i) the individual that received that consideration; or

“(ii) property not in the possession of the debtor that secures that claim.

“(B) Notwithstanding subparagraph (A), the stay provided by subsection (a) shall apply in any case in which the debtor is primarily obligated to pay the creditor in whole or in part with respect to a claim described in subparagraph (A) under a legally binding separation or property settlement agreement or divorce or dissolution decree with respect to—

“(i) an individual described in subparagraph (A)(i); or

“(ii) property described in subparagraph (A)(ii).

“(3) Notwithstanding subsection (c), the stay provided by subsection (a) shall terminate as of the date of confirmation of the plan, in any case in which the plan of the debtor provides that the debtor’s interest in personal property subject to a lease with respect to which the debtor is the lessee will be surrendered or abandoned or no payments will be made under the plan on account of the debtor’s obligations under the lease.”.

SEC. 306. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Chapter 6 of part I of title 28, United States Code, is amended by adding at the end the following:

“§159. Bankruptcy statistics

“(a) The clerk of each district shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the ‘Office’).

“(b) The Director shall—

“(1) compile the statistics referred to in subsection (a);

“(2) make the statistics available to the public; and

“(3) not later than October 31, 1998, and annually thereafter, prepare, and submit to Con-

gress a report concerning the information collected under subsection (a) that contains an analysis of the information.

“(c) The compilation required under subsection (b) shall—

“(1) be itemized, by chapter, with respect to title 11;

“(2) be presented in the aggregate and for each district; and

“(3) include information concerning—

“(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

“(B) the current total monthly income, projected monthly net income, and average income and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 111, 521, and 1322 of title 11;

“(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

“(D) the average period of time between the filing of the petition and the closing of the case;

“(E) for the reporting period—

“(i) the number of cases in which a reaffirmation was filed; and

“(ii)(I) the total number of reaffirmations filed;

“(II) of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney; and

“(III) of those cases, the number of cases in which the reaffirmation was approved by the court;

“(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

“(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

“(II) the number of final orders determining the value of property securing a claim issued;

“(ii) the number of cases dismissed for failure to make payments under the plan; and

“(iii) the number of cases in which the debtor filed another case within the 6 years previous to the filing; and

“(G) the extent of creditor misconduct and any amount of punitive damages awarded by the court for creditor misconduct.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 6 of title 28, United States Code, is amended by adding at the end the following:

“159. Bankruptcy statistics.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 307. AUDIT PROCEDURES.

(a) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), as amended by section 301 of this Act, by striking paragraph (6) and inserting the following:

“(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f); and”;

(2) by adding at the end the following:

“(f)(1)(A) The Attorney General shall establish procedures for the auditing of the accuracy and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.

“(B) The audits described in subparagraph (A) shall be made in accordance with generally accepted auditing standards and performed by independent certified public accountants or

independent licensed public accountants. Those procedures shall—

“(i) establish a method of selecting appropriate qualified persons to contract with the United States trustee to perform those audits;

“(ii) establish a method of randomly selecting cases to be audited according to generally accepted auditing standards, except that not less than 1 out of every 500 cases in each Federal judicial district shall be selected for audit;

“(iii) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed; and

“(iv) establish procedures for—

“(I) reporting the results of those audits and any material misstatement of income, expenditures, or assets of a debtor to the Attorney General, the United States Attorney and the court, as appropriate;

“(II) providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported; and

“(III) fully funding those audits, including procedures requiring each debtor with sufficient available income or assets to contribute to the payment for those audits, as an administrative expense or otherwise.

“(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1).

“(3) According to procedures established under paragraph (1), upon request of a duly appointed auditor, the debtor shall cause the accounts, papers, documents, financial records, files and all other papers, things, or property belonging to the debtor as the auditor requests and that are reasonably necessary to facilitate the audit to be made available for inspection and copying.

“(4)(A) The report of each audit conducted under this subsection shall be filed with the court, the Attorney General, and the United States Attorney, as required under procedures established by the Attorney General under paragraph (1).

“(B) If a material misstatement of income or expenditures or of assets is reported under subparagraph (A), a statement specifying that misstatement shall be filed with the court and the United States trustee shall—

“(i) give notice thereof to the creditors in the case; and

“(ii) in an appropriate case, in the opinion of the United States trustee, that requires investigation with respect to possible criminal violations, the United States Attorney for the district.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 308. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: “Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than one creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.”.

SEC. 309. FAIR NOTICE FOR CREDITORS IN CHAPTER 7 AND 13 CASES.

Section 342 of title 11, United States Code, is amended—

(1) in subsection (c), by striking “, but the failure of such notice to contain such information shall not invalidate the legal effect of such notice”; and

(2) by adding at the end the following:

“(d)(1) If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor that is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall include that account number in any notice to the creditor required to be given under this title.

“(2) If the creditor has specified to the debtor, in the last communication before the filing of the petition, an address at which the creditor wishes to receive correspondence regarding the debtor’s account, any notice to the creditor required to be given by the debtor under this title shall be given at such address.

“(3) For purposes of this section, the term ‘notice’ shall include—

“(A) any correspondence from the debtor to the creditor after the commencement of the case;

“(B) any statement of the debtor’s intention under section 521(a)(2);

“(C) notice of the commencement of any proceeding in the case to which the creditor is a party; and

“(D) any notice of a hearing under section 1324.

“(e)(1) At any time, a creditor, in a case of an individual under chapter 7 or 13, may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case.

“(2) If the court or the debtor is required to give the creditor notice, not later than 5 days after receipt of the notice under paragraph (1), that notice shall be given at that address.

“(f) An entity may file with the court a notice stating its address for notice in cases under chapter 7 or 13. After the date that is 30 days following the filing of that notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (e) with respect to a particular case.

“(g)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor.

“(2) If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to that department or person, notice shall not be brought to the attention of the creditor until that notice is received by that person or department.”

SEC. 310. STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.

Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) in subparagraph (B)—

(A) by striking “in the converted case, with allowed secured claims” and inserting “only in a case converted to chapter 11 or 12 but not in a case converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12”; and

(B) by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(C) with respect to cases converted from chapter 13, the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of that claim determined under ap-

plicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding.”

SEC. 311. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting “(1)” after “(e)”; and

(2) by adding at the end the following:

“(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

“(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

“(B) that 60-day period is extended—

“(i) by agreement of all parties in interest; or

“(ii) by the court for such specific period of time as the court finds is required for good cause.”

SEC. 312. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 707 of title 11, United States Code, as amended by section 102 of this Act, is amended by adding at the end the following:

“(c)(1) Notwithstanding subsection (a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under section 521(a)(1) within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

“(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. The court shall, if so requested, enter an order of dismissal not later than 5 days after that request.

“(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 20 days to file the information required under section 521(a)(1) if the court finds justification for extending the period for the filing.”

SEC. 313. ADEQUATE TIME FOR PREPARATION FOR A HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, as amended by section 304 of this Act, is amended—

(1) by striking “After” and inserting the following:

“(a) Except as provided in subsection (b) and after”; and

(2) by adding at the end the following:

“(b) If not later than 5 days after receiving notice of a hearing on confirmation of the plan, a creditor objects to the confirmation of the plan, the hearing on confirmation of the plan may be held no earlier than 20 days after the first meeting of creditors under section 341(a).”

SEC. 314. DISCHARGE UNDER CHAPTER 13.

Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

“(1) provided for under section 1322(b)(5);

“(2) of the kind specified in paragraph (2), (4), (5), (8), or (9) of section 523(a);

“(3) for restitution, or a criminal fine, included in a sentence on the debtor’s conviction of a crime; or

“(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.”

SEC. 315. NONDISCHARGEABLE DEBTS.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

“(14A) incurred to pay a debt that is nondischargeable by reason of section 727, 1141, 1228 (a) or (b), or 1328(b), or any other provision of this subsection, except for any debt incurred to pay such a nondischargeable debt in any case in which—

“(A)(i) the debtor who paid the nondischargeable debt is a single parent who has 1 or more dependent children at the time of the order for relief; or

“(ii) there is an allowed claim for alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor payable under a judicial or administrative order to that spouse or child (but not to any other person) that was unpaid by the debtor as of the date of the petition; and

“(B) the creditor is unable to demonstrate that the debtor intentionally incurred the debt to pay the nondischargeable debt;”

SEC. 316. CREDIT EXTENSIONS ON THE EVE OF BANKRUPTCY PRESUMED NONDISCHARGEABLE.

Section 523(a)(2) of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) in subparagraph (A), by striking the semicolon at the end and inserting the following:

“(and, for purposes of this subparagraph, consumer debts owed in an aggregate amount greater than or equal to \$400 incurred for goods or services not reasonably necessary for the maintenance or support of the debtor or a dependent child of the debtor to a single creditor that are incurred during the 90-day period preceding the date of the order for relief shall be presumed to be nondischargeable under this subparagraph); or”

(2) in subparagraph (B), by striking “or” at the end; and

(3) by striking subparagraph (C).

SEC. 317. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

Section 101 of title 11, United States Code, is amended by inserting after paragraph (27) the following:

“(27A) ‘household goods’ has the meaning given that term in section 444.1(i) of title 16, of the Code of Federal Regulations (as in effect on the effective date of this paragraph), which is part of the regulations issued by the Federal Trade Commission that are commonly known as the ‘Trade Regulation Rule on Credit Practices’, except that the term shall also include any tangible personal property reasonably necessary for the maintenance or support of a dependent child;”

SEC. 318. RELIEF FROM STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

(a) AUTOMATIC STAY.—Section 362 of title 11, United States Code, as amended by section 303, is amended—

(1) in subsection (c)(1), in the matter preceding subparagraph (A), by striking “(e) and (f)” and inserting “(e), (f), and (h)”; and

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following:

“(h) In an individual case under chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate securing in whole or in part a claim that is in an amount greater than \$3,000, or subject to an unexpired lease with a remaining term of at least 1 year (in any case in which the debtor owes at least \$3,000 for a 1-year period), if within 30 days after the expiration of the applicable period under section 521(a)(2)—

“(1)(A) the debtor fails to timely file a statement of intention to surrender or retain the property; or

“(B) if the debtor indicates in the filing that the debtor will retain the property, the debtor fails to meet an applicable requirement to—

“(i) either—

“(I) redeem the property pursuant to section 722; or

“(II) reaffirm the debt the property secures pursuant to section 524(c); or

“(ii) assume the unexpired lease pursuant to section 365(d) if the trustee does not do so; or

“(2) the debtor fails to timely take the action specified in a statement of intention referred to in paragraph (1)(A) (as amended, if that statement is amended before expiration of the period for taking action), unless—

“(A) the statement of intention specifies reaffirmation; and

“(B) the creditor refuses to reaffirm the debt on the original contract terms for the debt.”

(b) DEBTOR'S DUTIES.—Section 521(a)(2) of title 11, United States Code, as redesignated by section 301(b) of this Act, is amended—

(1) in the matter preceding subparagraph (A), by striking “consumer”;

(2) in subparagraph (B)—

(A) by striking “forty-five days after the filing of a notice of intent under this section” and inserting “30 days after the first meeting of creditors under section 341(a)”;

(B) by striking “forty-five-day period” and inserting “30-day period”;

(3) in subparagraph (C), by inserting “, except as provided in section 362(h)” before the semicolon.

SEC. 319. ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.

(a) IN GENERAL.—Chapter 13 of title 11, United States Code, is amended by adding after section 1307 the following:

“§1307A. Adequate protection in chapter 13 cases

“(a)(1)(A) On or before the date that is 30 days after the filing of a case under this chapter, the debtor shall make cash payments in an amount determined under paragraph (2)(A), to—

“(i) any lessor of personal property; and

“(ii) any creditor holding a claim secured by personal property to the extent that the claim is attributable to the purchase of that property by the debtor.

“(B) The debtor or the plan shall continue making the adequate protection payments until the earlier of the date on which—

“(i) the creditor begins to receive actual payments under the plan; or

“(ii) the debtor relinquishes possession of the property referred to in subparagraph (A) to—

“(I) the lessor or creditor; or

“(II) any third party acting under claim of right, as applicable.

“(2) The payments referred to in paragraph (1)(A) shall be determined by the court.

“(b)(1) Subject to the limitations under paragraph (2), the court may, after notice and hearing, change the amount and timing of the dates of payment of payments made under subsection (a).

“(2)(A) The payments referred to in paragraph (1) shall be payable not less frequently than monthly.

“(B) The amount of a payment referred to in paragraph (1) shall not be less than the reasonable depreciation of the personal property described in subsection (a)(1), determined on a month-to-month basis.

“(c) Notwithstanding section 1326(b), the payments referred to in subsection (a)(1)(A) shall be continued in addition to plan payments under a confirmed plan until actual payments to the creditor begin under that plan, if the confirmed plan provides—

“(1) for payments to a creditor or lessor described in subsection (a)(1); and

“(2) for the deferral of payments to such creditor or lessor under the plan until the payment of amounts described in section 1326(b).

“(d) Notwithstanding sections 362, 542, and 543, a lessor or creditor described in subsection (a) may retain possession of property described

in that subsection that was obtained in accordance with applicable law before the date of filing of the petition until the first payment under subsection (a)(1)(A) is received by the lessor or creditor.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

“1307A. Adequate protection in chapter 13 cases.”

SEC. 320. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(A), by inserting “subject to subsection (n),” before “any property”; and

(2) by adding at the end the following new subsection:

“(n)(1) Except as provided in paragraph (2), as a result of electing under subsection (b)(2)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that exceeds in the aggregate \$100,000 in value in—

“(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

“(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

“(C) a burial plot for the debtor or a dependent of the debtor.

“(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(2)(A) by a family farmer for the principal residence of that farmer.”

SEC. 321. MISCELLANEOUS IMPROVEMENTS.

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

“(h) Notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the 90-day period preceding the date of filing of the petition of that individual, made a good-faith attempt to create a debt repayment plan outside the judicial system for bankruptcy law (commonly referred to as the ‘bankruptcy system’), through a credit counseling program (offered through credit counseling services described in section 111(a) that has been approved by—

“(1) the United States trustee; or

“(2) the bankruptcy administrator for the district in which the petition is filed.”

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking “or” at the end;

(2) in paragraph (10), by striking the period and inserting “; or”; and

(3) by adding at the end the following:

“(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111 that was administered or approved by—

“(A) the United States trustee; or

“(B) the bankruptcy administrator for the district in which the petition is filed.”

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

“(f) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111 that was administered or approved by—

“(1) the United States trustee; or

“(2) the bankruptcy administrator for the district in which the petition is filed.”

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 301(b) and 318(b) of this Act, is amended by adding at the end the following:

“(e) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

“(1) a certificate from the credit counseling service that provided the debtor services under section 109(h) or other substantial evidence of a good-faith attempt to create a debt repayment plan outside the bankruptcy system in the manner prescribed in section 109(h); and

“(2) a copy of the debt repayment plan developed under section 109(h) through the credit counseling service referred to in paragraph (1).”

(e) EXCEPTIONS TO DISCHARGE.—Section 523(d) of title 11, United States Code, as amended by section 202 of this Act, is amended by striking paragraph (3)(A)(i) and inserting the following:

“(i) before the filing of the petition, the debtor made a good faith attempt pursuant to section 109(h) to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and”

(f) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

“§111. Credit counseling services; financial management instructional courses

“(a) The clerk of each district shall maintain a list of credit counseling services that provide 1 or more programs described in section 109(h) and that have been approved by—

“(1) the United States trustee; or

“(2) the bankruptcy administrator for the district.

“(b) The United States trustee or each bankruptcy administrator referred to in subsection (a)(1) shall—

“(1) make available to debtors who are individuals an instructional course concerning personal financial management, under the direction of the bankruptcy court; and

“(2) maintain a list of instructional courses concerning personal financial management that are operated by a private entity and that have been approved by the United States trustee or that bankruptcy administrator.”

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

“111. Credit counseling services; financial management instructional courses.”

(g) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by section 317 of this Act, is amended—

(1) by inserting after paragraph (13) the following:

“(13A) ‘debtor’s principal residence’—

“(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

“(B) includes an individual condominium or co-operative unit;”

(2) by inserting after paragraph (27A), as added by section 318 of this Act, the following:

“(27B) ‘incidental property’ means, with respect to a debtor’s principal residence—

“(A) property commonly conveyed with a principal residence in the area where the real estate is located;

“(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

“(C) all replacements or additions;”

SEC. 322. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the “Bankruptcy Judgeship Act of 1998”.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENTS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the eastern district of California.

(B) Four additional bankruptcy judgeships for the central district of California.

(C) One additional bankruptcy judgeship for the southern district of Florida.

(D) Two additional bankruptcy judgeships for the district of Maryland.

(E) One additional bankruptcy judgeship for the eastern district of Michigan.

(F) One additional bankruptcy judgeship for the southern district of Mississippi.

(G) One additional bankruptcy judgeship for the district of New Jersey.

(H) One additional bankruptcy judgeship for the eastern district of New York.

(I) One additional bankruptcy judgeship for the northern district of New York.

(J) One additional bankruptcy judgeship for the southern district of New York.

(K) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(L) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(M) One additional bankruptcy judgeship for the western district of Tennessee.

(N) One additional bankruptcy judgeship for the eastern district of Virginia.

(2) VACANCIES.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) that—

(A) results from the death, retirement, resignation, or removal of a bankruptcy judge; and

(B) occurs 5 years or more after the appointment date of a bankruptcy judge appointed under paragraph (1); shall not be filled.

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary bankruptcy judgeship positions authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, the district of South Carolina, and the eastern district of Tennessee under section 3(a) (1), (3), (7), (8), and (9) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring—

(A) 8 years or more after November 8, 1993, with respect to the northern district of Alabama;

(B) 10 years or more after October 28, 1993, with respect to the district of Delaware;

(C) 8 years or more after August 29, 1994, with respect to the district of Puerto Rico;

(D) 8 years or more after June 27, 1994, with respect to the district of South Carolina; and

(E) 8 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 remain applicable to such temporary judgeship position.

(d) TECHNICAL AMENDMENT.—The first sentence of section 152(a)(1) of title 28, United States Code, is amended to read as follows: "Each bankruptcy judge to be appointed for a judicial district as provided in paragraph (2) shall be appointed by the United States court of appeals for the circuit in which such district is located."

(e) TRAVEL EXPENSES OF BANKRUPTCY JUDGES.—Section 156 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) In this subsection, the term 'travel expenses'—

"(A) means the expenses incurred by a bankruptcy judge for travel that is not directly related to any case assigned to such bankruptcy judge; and

"(B) shall not include the travel expenses of a bankruptcy judge if—

"(i) the payment for the travel expenses is paid by such bankruptcy judge from the personal funds of such bankruptcy judge; and

"(ii) such bankruptcy judge does not receive funds (including reimbursement) from the United States or any other person or entity for the payment of such travel expenses.

"(2) Each bankruptcy judge shall annually submit the information required under paragraph (3) to the chief bankruptcy judge for the district in which the bankruptcy judge is assigned.

"(3)(A) Each chief bankruptcy judge shall submit an annual report to the Director of the Administrative Office of the United States Courts on the travel expenses of each bankruptcy judge assigned to the applicable district (including the travel expenses of the chief bankruptcy judge of such district).

"(B) The annual report under this paragraph shall include—

"(i) the travel expenses of each bankruptcy judge, with the name of the bankruptcy judge to whom the travel expenses apply;

"(ii) a description of the subject matter and purpose of the travel relating to each travel expense identified under clause (i), with the name of the bankruptcy judge to whom the travel applies; and

"(iii) the number of days of each travel described under clause (ii), with the name of the bankruptcy judge to whom the travel applies.

"(4)(A) The Director of the Administrative Office of the United States Courts shall—

"(i) consolidate the reports submitted under paragraph (3) into a single report; and

"(ii) annually submit such consolidated report to Congress.

"(B) The consolidated report submitted under this paragraph shall include the specific information required under paragraph (3)(B), including the name of each bankruptcy judge with respect to clauses (i), (ii), and (iii) of paragraph (3)(B)."

SEC. 323. PREFERRED PAYMENT OF CHILD SUPPORT IN CHAPTER 7 PROCEEDINGS.

Section 507(a) of title 11, United States Code, is amended in the matter preceding paragraph (1), by inserting ", except that, notwithstanding any other provision of this title, any expense or claim entitled to priority under paragraph (7) shall have first priority over any other expense or claim that has priority under any other provision of this subsection" before the colon.

SEC. 324. PREFERRED PAYMENT OF CHILD SUPPORT IN CHAPTER 13 PROCEEDINGS.

Section 1322(b)(1) of title 11, United States Code, is amended by striking the semicolon at the end and inserting the following: "and provide for the payment of any claim entitled to priority under section 507(a)(7) before the payment of any other claim entitled to priority under section 507(a), notwithstanding the priorities established under section 507(a)."

SEC. 325. PAYMENT OF CHILD SUPPORT REQUIRED TO OBTAIN A DISCHARGE IN CHAPTER 13 PROCEEDINGS.

Title 11, United States Code, is amended—

(1) in section 1325(a)—

(A) in paragraph (5), by striking "and" at the end;

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) if the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under that order for alimony, maintenance, or support that are due after the date on which the petition is filed."; and

(2) in section 1328(a), as amended by section 314 of this Act, in the matter preceding paragraph (1), by inserting "; and with respect to a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, only after the debtor certifies as of the later of the date of that completion or the date of certification that all amounts

payable under that order for alimony, maintenance, or support that are due before the date of that certification have been paid in accordance with the plan if applicable, or if the underlying debt is not treated by the plan, paid in full" after "completion by the debtor of all payments under the plan".

SEC. 326. CHILD SUPPORT AND ALIMONY COLLECTION.

Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" at the end;

(2) in paragraph (18), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(19) under subsection (a) with respect to the withholding of income pursuant to an order as specified in section 466(b) of the Social Security Act (42 U.S.C. 666(b)); or

"(20) under subsection (a) with respect to the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses pursuant to State law, as specified in section 466(a)(15) of the Social Security Act (42 U.S.C. 666(a)(15)) or with respect to the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7))."

SEC. 327. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) in subsection (a), by striking paragraph (5) and inserting the following:

"(5) to a spouse, former spouse, or child of the debtor—

"(A) for actual alimony to, maintenance for, or support of that spouse or child;

"(B) that was incurred by the debtor in the course of a divorce or separation or in connection with a separation agreement, property settlement agreement, divorce decree, other order of a court of record, or determination made in accordance with State or territorial law by a governmental unit; or

"(C) that is described in subparagraph (A) or (B) and that is assigned pursuant to section 408(a)(3) of the Social Security Act (42 U.S.C. 608(a)(3)), or to the Federal Government, a State, or any political subdivision of a State,

but not to the extent that the debt (other than a debt described in subparagraph (C)) is assigned to another entity, voluntarily, by operation of law, or otherwise;"; and

(2) in subsection (c), by striking "(6), or (15)" and inserting "or (6)".

SEC. 328. ENFORCEMENT OF CHILD AND SPOUSAL SUPPORT.

Section 522(c)(1) of title 11, United States Code, is amended by inserting "; except that, notwithstanding any other Federal law or State law relating to exempted property, such exempt property shall be liable for debts of a kind specified in paragraph (1) or (5) of section 523(a)" before the semicolon at the end of the paragraph.

SEC. 329. DEPENDENT CHILD DEFINED.

Section 101 of title 11, United States Code, is amended by inserting after paragraph (14) the following:

"(14A) 'dependent child' means, with respect to an individual, a child who has not attained the age of 18 and who is a dependent of that individual, within the meaning of section 152 of the Internal Revenue Code."

TITLE IV—TECHNICAL CORRECTIONS

SEC. 401. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by section 317, is amended—

(1) by striking "In this title—" and inserting "In this title:";

(2) in each paragraph, by inserting "The term" after the paragraph designation;

(3) in paragraph (35)(B), by striking "paragraphs (21B) and (33)(A)" and inserting "paragraphs (23) and (35)";

(4) in each of paragraphs (35A) and (38), by striking "; and" at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting "who is not a family farmer" after "debtor" the first place it appears; and

(B) by striking "thereto having aggregate" and all that follows through the end of the paragraph;

(6) by amending paragraph (54) to read as follows:

"(54) The term 'transfer' means—

"(A) the creation of a lien;

"(B) the retention of title as a security interest;

"(C) the foreclosure of a debtor's equity of redemption; or

"(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

"(i) property; or

"(ii) an interest in property;"

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (56A) (including paragraph (54), as amended by paragraph (6) of this section), by striking the semicolon at the end and inserting a period; and

(8) by redesignating paragraphs (4) through (56A) in entirely numerical sequence, so as to result in numerical paragraph designations of (4) through (72), respectively.

SEC. 402. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting "522(f)(3), 707(b)(5)," after "522(d)," each place it appears.

SEC. 403. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking "922" and all that follows through "or", and inserting "922, 1201, or".

SEC. 404. WHO MAY BE A DEBTOR.

Section 109(b)(2) of title 11, United States Code, is amended by striking "subsection (c) or (d) of".

SEC. 405. PENALTY FOR PERSONS WHO NEGLIGENCE OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(3) of title 11, United States Code, is amended by striking "attorney's" and inserting "attorneys".

SEC. 406. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting "on a fixed or percentage fee basis," after "hourly basis,".

SEC. 407. SPECIAL TAX PROVISIONS.

Section 346(g)(1)(C) of title 11, United States Code, is amended by striking ", except" and all that follows through "1986".

SEC. 408. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting "of the estate" after "property" the first place it appears.

SEC. 409. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, as amended by section 326 of this Act, is amended—

(1) in paragraph (19), by striking "or" at the end;

(2) in paragraph (20), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(21) under subsection (a) of this section of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;

"(22) under subsection (a)(3) of this section, of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement; or

"(23) under subsection (a)(3) of this section, of the commencement of any eviction, unlawful de-

tainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement that has terminated.".

SEC. 410. AMENDMENT TO TABLE OF SECTIONS.

The table of sections for chapter 5 of title 11, United States Code, is amended by striking the item relating to section 556 and inserting the following:

"556. Contractual right to liquidate a commodities contract or forward contract."

SEC. 411. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting "subparagraph (A), (B), (C), (D), or (E) of" before "paragraph (3)".

SEC. 412. PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by section 323 of this Act, is amended—

(1) in paragraph (3)(B), by striking the semicolon at the end and inserting a period; and

(2) in paragraph (7), by inserting "unsecured" after "allowed".

SEC. 413. EXEMPTIONS.

Section 522 of title 11, United States Code, as amended by section 320 of this Act, is amended—

(1) in subsection (f)(1)(A)(ii)(II)—

(A) by striking "includes a liability designated as" and inserting "is for a liability that is designated as, and is actually in the nature of,"; and

(B) by striking ", unless" and all that follows through "support"; and

(2) in subsection (g)(2), by striking "subsection (f)(2)" and inserting "subsection (f)(1)(B)".

SEC. 414. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)(3), by striking "or (6)" each place it appears and inserting "(6), or (15)";

(2) as amended by section 304(e) of Public Law 103-394 (108 Stat. 4133), in paragraph (15), by transferring such paragraph so as to insert it after paragraph (14) of subsection (a);

(3) in subsection (a)(9), by inserting "watercraft, or aircraft" after "motor vehicle";

(4) in subsection (a)(15), as so redesignated by paragraph (2) of this subsection, by inserting "to a spouse, former spouse, or child of the debtor and" after "(15)";

(5) in subsection (a)(17)—

(A) by striking "by a court" and inserting "on a prisoner by any court";

(B) by striking "section 1915 (b) or (f)" and inserting "subsection (b) or (f)(2) of section 1915"; and

(C) by inserting "(or a similar non-Federal law)" after "title 28" each place it appears; and

(6) in subsection (e), by striking "a insured" and inserting "an insured".

SEC. 415. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking "section 523" and all that follows through "or that" and inserting "section 523, 1228(a)(1), or 1328(a)(1) of this title, or that".

SEC. 416. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting "student" before "grant" the second place it appears; and

(2) in paragraph (2), by striking "the program operated under part B, D, or E of" and inserting "any program operated under".

SEC. 417. PROPERTY OF THE ESTATE.

Section 541(b)(4) of title 11, United States Code, is amended—

(1) in subparagraph (B)(ii), by inserting "365 or" before "542"; and

(2) by adding "or" at the end.

SEC. 418. LIMITATIONS ON AVOIDING POWERS.

Section 546 of title 11, United States Code, is amended by redesignating the second subsection (g) (as added by section 222(a) of the Bankruptcy Reform Act of 1994; 108 Stat. 4129) as subsection (h).

SEC. 419. PREFERENCES.

Section 547 of title 11, United States Code, is amended—

(1) in subsection (b), by striking "subsection (c)" and inserting "subsections (c) and (h)"; and

(2) by adding at the end the following:

"(h) If the trustee avoids under subsection (b) a security interest given between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such security interest shall be considered to be avoided under this section only with respect to the creditor that is an insider."

SEC. 420. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting "an interest in" after "transfer of";

(2) by striking "such property" and inserting "such real property"; and

(3) by striking "the interest" and inserting "such interest".

SEC. 421. TECHNICAL AMENDMENT.

Section 552(b)(1) of title 11, United States Code, is amended by striking "product" each place it appears and inserting "products".

SEC. 422. SETOFF.

Section 553(b)(1) of title 11, United States Code, is amended by striking "362(b)(14)" and inserting "362(b)(17)".

SEC. 423. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking "1009".

SEC. 424. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting "1123(d)," after "1123(b)".

SEC. 425. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end the following:

"(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election. Upon the filing of a report under the preceding sentence—

"(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

"(ii) the service of any trustee appointed under subsection (d) shall terminate.

"(B) In the case of any dispute arising out of an election under subparagraph (A), the court shall resolve the dispute."

SEC. 426. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. 427. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking "section 11347" and inserting "section 11326(a)".

SEC. 428. DISCHARGE UNDER CHAPTER 12.

Subsections (a) and (c) of section 1228 of title 11, United States Code, are amended by striking "1222(b)(10)" each place it appears and inserting "1222(b)(9)".

SEC. 429. EXTENSIONS.

Section 302(d)(3) of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—

(1) in subparagraph (A), in the matter following clause (ii), by striking "or October 1, 2002, whichever occurs first"; and

(2) in subparagraph (F)—

(A) in clause (i)—

(i) in subclause (II), by striking “or October 1, 2002, whichever occurs first”; and

(ii) in the matter following subclause (II), by striking “October 1, 2003, or”; and

(B) in clause (ii), in the matter following subclause (II)—

(i) by striking “before October 1, 2003, or”; and

(ii) by striking “, whichever occurs first”.

SEC. 430. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking “made under this subsection” and inserting “made under subsection (c)”; and

(2) by striking “This subsection” and inserting “Subsection (c) and this subsection”.

SEC. 431. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting “(1) the term” before “‘bankruptcy’”; and

(B) by striking the period at the end and inserting “; and”; and

(2) in the second undesignated paragraph—

(A) by inserting “(2) the term” before “‘document’”; and

(B) by striking “this title” and inserting “title 11”.

SEC. 432. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) **EFFECTIVE DATE.**—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) **APPLICATION OF AMENDMENTS.**—The amendments made by this title shall apply only with respect to cases commenced under title 11, United States Code, on or after the date of enactment of this Act.

AMENDMENT NO. 3559

(Purpose: In the nature of a substitute)

Mr. LOTT. On behalf of Senator GRASSLEY, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] for Mr. GRASSLEY, for himself and Mr. HATCH, proposes an amendment numbered 3559.

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

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

(The text of the amendment is printed in today's RECORD under “Amendments Submitted.”)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to Calendar No. 394, S. 1301, the Consumer Bankruptcy Protection Act:

Trent Lott, Orrin G. Hatch, Charles Grassley, Arlen Specter, Strom Thurmond, Connie Mack, Ben Nighthorse Campbell, Thad Cochran, Tim Hutch-

inson, Wayne Allard, Christopher Bond, Rick Santorum, Chuck Hagel, Larry E. Craig, and Jon Kyl.

Mr. LOTT. Mr. President, for the information of all Senators, this cloture vote would occur, then, on Friday 1 hour after the Senate convenes unless changed by unanimous consent or unless we get something worked out.

I yield to Senator DASCHLE for his comments on this or his suggestions as to how we might proceed.

Mr. DASCHLE. Mr. President, I appreciate the leader's comments earlier. I do believe that there is an opportunity here for us to come to some procedural conclusion on how we might address this bill. I think that Senators GRASSLEY and DURBIN have been working in good faith. I have had the opportunity to discuss this matter with Senator KENNEDY. I personally don't believe the cloture motion is the most constructive approach, but I also recognize that the majority leader has noted that that could be vitiated were we to come to some agreement.

I think it is a fair statement that if we are forced into a cloture motion, nothing will happen. If we can reach an agreement, there may be an opportunity for us to have a good debate and to have some votes on key amendments, both directly relevant to the bill and perhaps not as directly relevant, but certainly relevant to the American agenda.

I am hopeful that we can accommodate the needs of Senators who have expressed an interest in amending this bill. I am confident that we can, and I hope this cloture motion will not be necessary.

Mr. LOTT. Mr. President, just in conclusion, once again, I urge all of the Senators that are interested in this legislation that they begin work right away, tomorrow, so that we will not let the whole day pass without trying to work something out. Senator DASCHLE and I will talk as the day progresses. That would be the wise thing to do, I think, if we can work something out that is reasonable, to allow us to continue to complete campaign finance reform, and so we can go on and hopefully complete the Interior appropriations bill.

This is a positive move and I appreciate the opportunity to work on it to see if we can get something agreed to.

Mr. President, at this point, I ask that the mandatory quorum under rule XXII be waived.

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

Mr. LOTT. On behalf of the managers of the bankruptcy bill, I hope Members will file their amendments in a timely manner. I know there are amendments that Senators are very interested in that would even be relevant postcloture, and then there are others that obviously Members are interested in, too. I hope they will file them. The managers are attempting to clear as many amendments as possible and would like to reach a consent agree-

ment limiting amendments, if that is at all possible, and perhaps that could be taken care of in our agreement that we are working on.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask there be a period for morning business, with Members permitted to speak for up to 10 minutes each.

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

NO RUSH TO JUDGMENT

Mr. BYRD. Mr. President, we appear to be only days away from receiving the Independent Counsel's report on President Clinton. The pressure on Congress is escalating. Talk of impeachment is in the air along with suggestions of resolutions of reprimand and censure. Some have even suggested that we ought to get on with impeachment and “get this thing behind us.”

There had to come a time, sooner or later, when the boil would be lanced. The problem is, that with the lancing, a hemorrhaging may be only one of those continuing symptoms of a greater lancing—perhaps even an amputation—that still lurks in the shadows up ahead.

There is no question but that the President, himself, has sown the wind, and he is reaping the whirlwind. His televised speech of August 17 heaped hot coals upon himself, coals causing wounds which continue to inflame and burn ever more deeply. Coming, as the speech did, so soon after the President's appearance before the Grand Jury, his words were ill-timed, ill-formed, and ill-advised. Perhaps if he had only delayed his televised speech for 24 hours, he may have, upon reflection, avoided some self-inflicted wounds that have since festered and continue to fester.

The Moving Finger writes; and, having writ,

Moves on: nor all thy Piety nor Wit
Shall lure it back to cancel half a Line,
Nor all thy Tears wash out a Word of it.

When the scribes and Pharisees brought before Jesus a woman taken in adultery, saying that, under Moses, the law commanded that she be stoned, they sought to tempt Jesus that they might accuse him. He said unto them: “He that is without sin among you, let him first cast a stone at her.” And that ancient admonition, that he who is without sin should cast the first stone, applies to every human being in this country today. Someone else has said: “No man's life will bear looking into.” These admonishments should give all of us pause and should encourage reflection and self-examination. In this instance, the President, himself, has, by his own actions and words, thrown the first stone at himself and thus made himself vulnerable to the stoning by others.

What a sorrowful spectacle! To maintain that Presidents have private lives