PRAYER

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

In 1780, Samuel Adams said, If you carefully fulfill the various duties of life, from a principle of obedience to your heavenly Father, you will enjoy a peace that the world cannot give nor take away.

Let us pray.

Gracious Father, we seek to be obedient to You as we fulfill the sacred duties of this Senate today. May the Senators and all who assist them see the work of this day as an opportunity to glorify You by serving our country. We renew our commitment to excellence in all that we do. Our desire is to know and do Your will. Grant us a profound experience of Your peace, true serenity in our soul that comes from complete trust in You, and dependence on Your guidance. Free us from anything that would distract or disturb us as we give ourselves totally to You for the tasks and challenges of this day. In our Lord's name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable GEORGE VOINOVICH, a Senator from the State of Ohio, led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. VOINOVICH). The acting majority leader is recognized.

Mr. SPECTER. I thank the Chair.

SCHEDULE

Mr. SPECTER. On behalf of our distinguished majority leader, I have been asked to make the following announcements.

Today the Senate will resume consideration of the bankruptcy reform legislation with 1 hour of debate on the pending minimum wage amendments. Following the debate, the Senate will proceed to two rollcall votes at approximately 10:30 a.m. There are numerous pending amendments, and others are expected to be offered and debated during today's session. Therefore, Senators may anticipate votes throughout the day. Progress is being made on the appropriations issues, and it is hoped that those remaining issues can be resolved prior to the Veterans Day recess.

BANKRUPTCY REFORM ACT OF 1999—Resumed

Pending:

Kohl amendment No. 2516, to limit the value of certain real or personal property a debtor may elect to exempt under State or local law.

Sessions amendment No. 2518 (to amendment No. 2516), to limit the value of certain real or personal property a debtor may elect to exempt under State or local law.

Feingold (for Durbin) amendment No. 2521, to discourage predatory lending practices.

Feingold amendment No. 2522, to provide for the expenses of long term care.

Hatch/Torricelli amendment No. 1729, to provide for domestic support obligations.

Leahy/Murray/Feinstein amendment No. 2528, to ensure additional expenses and income adjustments associated with protection of the debtor and the debtor's family from domestic violence are included in the debtor's monthly expenses.

Leahy amendment No. 2529, to save United States taxpayers $24,000,000 by eliminating the blanket mandate relating to the filing of tax returns.

Wellstone amendment No. 2537, to disallow claims of certain insured depository institutions.

Wellstone amendment No. 2538, with respect to the disallowance of certain claims and to prohibit certain coercive debt collection practices.

Kennedy amendment No. 2751, to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage.

Domenici amendment No. 2547, to increase the Federal minimum wage and protect small business.

Feinstein amendment No. 1696, to limit the amount of credit extended under an open end consumer credit plan to persons under the age of 21.

Feinstein amendment No. 2755, to discourage indiscriminate extensions of credit and resulting consumer insolvency.

Schumer/Durbin amendment No. 2759, with respect to national standards and homeowner home maintenance costs.

Schumer/Durbin amendment No. 2762, to modify the means test relating to safe harbor provisions.

Schumer amendment No. 2763, to ensure that debts incurred as a result of clinic violence are nondischargeable.

Schumer amendment No. 2764, to provide for greater accuracy in certain means testing.

Schumer amendment No. 2765, to include certain dislocated workers' expenses in the debtor's monthly expenses.

Levin amendment No. 2768, to prohibit certain retroactive finance charges.

Levin amendment No. 2772, to express the sense of the Senate concerning credit worthiness.

LABOR–HHS APPROPRIATIONS

Mr. SPECTER. Mr. President, I wish to make a brief comment, if I may, on one of the items referred to in a statement by the majority leader about the appropriations process, which I think will be of interest to our colleagues and perhaps to others who may be watching on C–SPAN 2.

We had negotiations beginning at 4 o'clock on Sunday afternoon with officials from the White House, and we are trying to resolve those issues in a spirit of accommodation. With respect to the dollars involved, the bill which came out of the Appropriations Committee was $93.7 billion for the three Departments. That was $600 million more than the President's figure, and it was $300 million more than the President's figure on education.

I worked on a bipartisan basis with my distinguished colleague, Senator HARKIN. The bill was crafted with what we thought was the right dollar amount—frankly, the maximum amount—to pass with votes in substantial numbers from Republicans and an amount which would be acceptable to Democrats and to the President because it was somewhat higher than his figure and we emphasized increased funding for the National Institutes of Health.

The administration has come back with a figure of $2.3 billion additional, and Congressman PORTER and I made an offer yesterday to add $228 million, provided we could find offsets because it is very important that we not go into the Social Security trust funds. So that whatever dollars we add to accommodate the President's priorities—we are going to have to have offsets on priorities which the Congress has established. We are prepared to meet him halfway on priorities on dollars—we are going to have to have offsets on priorities which the Congress has established.

There is a much more difficult issue in this matter than the dollars, although the dollars are obviously of great importance, and the issue which is extremely contentious is what will be done on the President's demand to have $1.4 billion to reduce classroom size to have additional teachers.

The Senate bill has appropriated $1.2 billion which maintains the high level of last year's funding. When it comes to the issue of the utilization of that money, we are prepared to acknowledge the President's first priority of reduction of classroom size for teachers. But if the local school board makes a factual determination that is not the real need of the local school board, then we propose that the second priority be teacher training. If the local school board decides that is not where the money ought to be spent, then we propose to give it to the school board the discretion as to the spending to local education, as opposed to a straitjacket out of Washington.

The White House Press Secretary has issued a statement this morning saying that these funds could be used for vouchers, and that is not true. That is a red herring. To allay any concern, we will make it explicit in the bill that the President's concern about the use of these funds for vouchers will be allayed. We are prepared to make that accommodation, although there had never been any intent to use it for vouchers. However, we will make that intent explicit in the bill.

Behind the issue of classroom size and the President's demand is a much greater constitutional issue. That is the constitutional issue of who controls the power of the purse. The Constitution gives the authority to the Congress to establish spending priorities, and we have seen a process evolve in the past few years which does not follow the constitutional format. The Constitution is very specific that each

House will decide on a bill, have a conference, and send that bill to the President for his signature or for his veto; and if he vetoes it, the bill then comes back to the Congress for reenactment. But what has happened in the immediate past has been that executive branch officials sit in with the appropriators and are a part of the legislative process, which is a violation of the principle of separation of powers. Now, I must say that I have been a party to those meetings because that is what is going on. But I want to identify it as a process which is not in conformity with the Constitution. It is something we ought to change. When it comes to the power and the control, what we have seen happen in the last 4 years is that the President has really made an effort, and to a substantial extent a successful effort, to take over the prerogative of the Congress on the power of the purse.

When the Government was closed in late 1995 and early 1996, the Republican-controlled Congress was blamed for the closure. That, candidly, has made the Congress gun-shy to challenge the President on spending issues. Since that time there has been a concession to the President on whatever it is that he wants, sort of ''pay a price to get out of town'' when people are anxious to have the congressional session adjourn.

Speaking for myself and I think quite a few others in the Congress are not going to put on the pressure to get out of town. We are going to do the job and do it right. Senator LOTT held a news conference yesterday and was asked about the termination time. He said he thought it was possible to finish the public's business by the close of the legislative session on Wednesday, which is tomorrow, but it was more important, as Senator LOTT articulated, to do it right than get it finished by any arbitrary deadline. I concur totally with Senator LOTT. I think it is possible to get the business finished by the end of the working day tomorrow. But it is more important to get it right than to get it finished on any prescribed schedule. In modern times there is too much concern about getting out of town, than perhaps getting the job done right. But we are determined to get it done and to get it done right. If we can get it done by the end of business tomorrow, that is what our goal is. But we are not going to sacrifice getting it done right in order to be able to finish up by Wednesday afternoon to get out of town.

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

Mr. SPECTER. No, I will not yield here, but I will in just a minute.

What we have seen is the President's ultimatum. He says this issue on schoolteachers is nonnegotiable. That is hardly the way you get into a negotiation session. Then his Chief of Staff, John Podesta, said on Sunday that if the Congress wants to get out of town they are going to have to accede to the President's demands on teachers, to do it his way. I think that is not appropriate. Congress has the power of the purse under the Constitution. It is our fundamental responsibility on appropriations. We are prepared to negotiate, but we are not prepared to deal with nonnegotiable demands. We are not prepared to deal with ultimatums. We are going back into a session—I don't know whether I should call it a negotiating session or not, because the President talks about nonnegotiable demands. Frankly, I am prepared to meet that with a nonnegotiable demand, not giving up on our prerogative to make a determination as to how the money is to be spent and getting local control over a Presidential straitjacket.

Now I would be delighted to yield to my distinguished colleague from Massachusetts.

Mr. KENNEDY. I wanted to inquire of the desk what the Senate business was supposed to be? I was under the impression we were supposed to be, at 9:30, on the minimum wage.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. SPECTER. I have concluded. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask we extend the time. How much time did the Senator from Pennsylvania expend?

Mr. DOMENICI. What was the question?

Mr. KENNEDY. I asked how much time the Senator from Pennsylvania used?

The PRESIDING OFFICER. The Republican side has 19 minutes left.

Mr. KENNEDY. Just as a matter of inquiry, were taken out of the time of the debate. Is that correct?

The PRESIDING OFFICER. Taken out of the Republican time.

Mr. KENNEDY. OK. Mr. President, I yield myself 12 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I listened to the Senator from Pennsylvania's comments with great interest. I will mention very briefly in defense of the administration, although they can make the case quite well for themselves that if the Appropriations Committee had finished their business on time we would not be in this particular dilemma. Only four appropriations bills were actually completed on time for the fiscal year. So with all respect to our friend on the other side, if the appropriators had placed, particularly the HEW appropriations, first rather than last, I do not think we would be having these kinds of problems in the areas of negotiation between the President and the Congress.

Second, the basic program which the President has been fighting for in this negotiation is almost identical to what the Republicans supported last year. With all respect to the comments we have just heard, the fact is if the classes reach the goals, the 15 percent set-aside for funding for smaller class sizes can be used to enhance the teacher training. If the school had already achieved the lower class size of 18, it would be used for special needs or other kinds of professional purposes.

So it is difficult for me to understand the frustration of the Senator from Pennsylvania when the Republican leaders all effectively endorse what the President talked about last year. If their position is not sustained, there are going to be 30,000 teachers who are teaching in first, second, and third grades who are going to get pink slips. I don't think the problem in education is having fewer schoolteachers teach in the early grades but to have more.

I want to make clear I am not a part of those negotiations this year, but I was last year. I know what the particular issue is. With all respect to those who are watching C–SPAN II, I want them to know the President is fighting for smaller class sizes as well as for better trained teachers. We have seen Senator MURRAY make that presentation and make it effectively time and again. I think it is something that parents support, teachers understand, and children have benefited from. No one makes that case more eloquently than the Senator from the State of Washington. But I certainly hope the President will continue that commitment. We have scarce Federal resources. They are targeted in areas of particular need. That is the purpose of these negotiations. I hope we can conclude a successful negotiation.

Mr. DOMENICI. Will the Senator yield on my time?

Mr. KENNEDY. On your time, yes.

Mr. DOMENICI. Just for an observation. He might want to answer it.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the truth of the matter is if schools want the new teachers, under the proposal of the distinguished chairman who just took to the floor to explain the obstinacy of the President, they can have the money for teachers. That is what he is saying. It is up to them. If they want all the money that comes from this appropriation used for teachers, they can have it. If they say, we don't need them, we don't want them, he is saying there is a second priority.

Frankly, I think that is excellent policy with reference to the schools of our country. I believe the Senator from Pennsylvania makes a good point. For the President to continue to say we are not going to get this bill unless we do it exactly his way leaves us with no alternative. We have some prerogatives, too. The fact is, if you read the Constitution, he doesn't appropriate; the Congress does.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just to respond, we have a need for 2 million teachers. We have scarce Federal resources. If the States or local communities want to do whatever the Senator from New Mexico says, all well and good. But we are talking about scarce Federal resources that are targeted in ways that have been proven effective in enhancing academic achievement and accomplishment.

I am again surprised. The Republicans were taking credit for this last year. I was in the negotiations. Mr. GOODLING and Mr. Gingrich—as we were waiting to find out whether the powers that be, the Speaker, was going to endorse this, when we were waiting and having negotiations—went out and announced it and took credit for it. They took credit for this proposal of the President.

I find it a little difficult to understand this kind of frustration that is being demonstrated here. But we will come back to this and Senator MURRAY can address these issues at a later time. I certainly hope the President will not flinch in his commitment to getting smaller class sizes and better trained teachers and after school programs. That is what this President has been fighting for. I hope he will not yield at this time in these final negotiations, after we have only had four appropriations that have met the deadline. Before we get all excited about these negotiations, if our appropriators had completed this work in time, we would not be here.

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

Mr. KENNEDY. How much time do we have? I will be glad to yield.

The PRESIDING OFFICER. The Senator has 24 minutes.

Mr. KENNEDY. Good. I am glad to yield.

Mr. DURBIN. Mr. President, briefly, I ask my colleague, is it not true this appropriation for education was the last of the bills considered by the Appropriations Committee? Is it not true that we waited until the very last day to even bring up this issue of education, the highest priority for American families? Now we find ourselves trying to adjourn, stuck on an issue that could have been resolved months ago had we made education as high a priority on Capitol Hill as it is in family rooms across America.

Mr. KENNEDY. The Senator is absolutely correct. The Senator from Illinois, the Senator from California, and I know the Senator from Washington as well, had hoped—and I believe I can speak for our Democratic leader—this would be the No. 1 appropriation and not the last one. If we had this as the No. 1 appropriation on the issue of education, we would not have these little statements we have heard this morning. But it is the last one. That is not by accident; that is by choice of the Republican leadership.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Twenty-three minutes.

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

In a few moments, we will be voting on the minimum wage issue that is before the Senate. I want to review what the record has been over the last 2 years.

In September of 1998, we brought up the minimum wage issue, and were unable to bring that to a vote on the basis of the merits. The Republican leadership said no.

In March of 1999, we tried to bring up this issue. Again, we were denied an opportunity to vote on it.

In April of 1999, we brought it up again as an amendment on Y2K. We were denied an opportunity to have a full debate.

In July of 1999, we brought it up again, and again we were turned down.

Now we have the minimum wage legislation before us, and in a cynical move, the Republican leadership said: Even if you get the passage of the minimum wage, it ''ain't'' going to go any further; the President isn't going to see it; it is going to end.

It is a sham. Their effort is basically a sham. That is the position in which we find ourselves today.

We know Americans are working longer and harder. The working poor are working longer and harder than at any time in the history of our country. We know that over the last 10 years, women are working 3 weeks longer a year in order to earn the minimum wage and men are averaging 50 hours a week. These are some of the hardest working men and women in the country.

At the height of the minimum wage in the late 1960s, it had the purchasing power that $7.49 would have today. If we are not able to raise the minimum wage this year and next, its value will be at an all-time low—in a time of extraordinary prosperity in this country. That is fundamentally wrong.

A vote for the Republican amendment will not help working families. It is, in fact, an insult to low-wage workers. It robs them of over $1,200 as compared to the Democratic proposal, and it drastically undermines the overtime provisions in the Fair Labor Standards Act which has been the law for over 60 years.

The Republican proposal jeopardizes the overtime pay of 73 million Americans. The Republicans did not water down their own pay increase of $4,600. They are now watering down the increase in the minimum wage, and they are watering down overtime. On the one hand, they are giving an inadequate increase in the minimum wage and taking it back by cutting back on overtime. That is a sham. That is a cynical attempt to try to win support for working families from those who are trying to do justice for those individuals.

We can ask, What difference does an increase in the minimum wage make?

Cathi Zeman, 52 years old, works at a Rite Aid in Canseburg, PA. She earns $5.68 an hour. She is the primary earner in the family because her husband has a heart condition and is only able to work sporadically. What difference would an increase in the minimum wage mean to Cathi and her family? It would cover 6 months of utility bills for Cathi's family.

Kimberly Frazier, a full-time child care aide from Philadelphia testified her pay of $5.20 an hour barely covers her rent, utilities, and clothes for her children. Our proposal would mean over 4 months of groceries for Kimberly and her kids.

The stories of these families remind us that it is long past time to raise the minimum wage by $1 over 2 years. We cannot delay it. We cannot stretch it out. We cannot use it to cut overtime. And we cannot use it as an excuse to give bloated tax breaks to the rich.

Members of Congress did not blink in giving themselves a $4,600 pay raise. Yet they deny a modest increase for those workers at the bottom of the economic ladder. I do not know how Members who voted for their own pay increase but I do not know how Members who vote against our minimum wage proposal will be able to face their constituents and explain their actions.

It is hypocritical and irresponsible to deny a fair pay raise to the country's lowest paid workers. Above all, raising the minimum wage $1 over 2 years and protecting overtime pay is about fairness and dignity. It is about fairness and dignity for men and women who are working 50 hours a week, 52 weeks of the year trying to provide for their children and their families.

This is a women's issue because a great majority of the minimum-wage workers are women. It is a children's issue because the majority of these women have children. It is a civil rights issue because the majority of individuals who make the minimum wage are men and women of color. And it is a fairness issue. At a time of extraordinary prosperity this country ought to be willing to grant an increase to the hardest working Americans in the nation—the day-care workers, the teachers aides. They deserve this increase. Our amendment will provide it, and the Republican amendment will not.

Mrs. BOXER. Will the Senator yield for a question?

Mr. KENNEDY. I yield for a question.

Mrs. BOXER. I thank my colleague for yielding. I say to the Senator from Massachusetts how much I appreciate him pushing this forward and how important it is to all of our States. I bring out an article that ran in the paper yesterday and today about the status of children in my home State of California, by far the largest State. I want my friend to respond to these numbers because they really say it.

This is what it says:

Despite a booming economy that has seen a tide of prosperity wash over California in

recent years, nearly 1 in 4 children under 18 in the Golden State lives in poverty. . . .

Although the annual ''California Report Card 1999'' laments that so many children live in poverty, it paints an especially bleak portrait of a child's first four years of life.

Lois Salisbury, president of Children Now, says:

Among all of California's children, our littlest ones . . . face the most stressful conditions of all. . . .

At a time when a child's sense of self and security is influenced most powerfully, California deals them a [terrible] hand.

I say to my friend, this issue he is raising is so critical. We all say how much we care about the children. Every one of us has made that speech. Today the rubber meets the road. If you care about children, you have to make sure their parents can support them.

My last point is, and I will yield for the answer, I wonder if my friend has seen the New York Times editorial that says:

The Senate will vote today on a Republican-sponsored amendment to raise the minimum wage and they say sadly the Republicans are not content to do this good deed and go home. They have loaded the amendment with tax cuts that are fiscally damaging and cynically focused on wealthy workers. Almost all of the Republican tax cuts go to the wealthy.

One of the economists who looked at this said:

It would encourage the reduction of contributions made by employers to the pensions of the lowest paid workers.

Can my friend comment on the importance of this proposal to children and also this cynical proposal that our colleagues on the other side are presenting?

Mr. KENNEDY. The Senator has raised an enormously important point. Americans who are working in poverty, which is at the highest level in 20 years, are working longer and harder than ever. The men work 50 hours a week or more on average and the women work an average of 3 weeks more a year. They have less time—22 hours less—to spend with their children than they did 10 years ago. That is why this is a children's issue, as the Senator has pointed out.

On the issue the difference between the Republican and the Democratic proposals, the Republicans say that their proposal makes some difference for those individuals who are going to get an increase in the minimum wage over 3 years.

This is a raw deal for them. On the one hand, they give them an increase in the minimum wage, and on the other hand they take back the overtime for 73 million Americans. It is a cynical sham, and it is a cynical sham because the majority leader has said even if it passes, it will never go out of this Chamber. That is the attitude toward hard-working men and women who are trying to play by the rules and get along at a time when they have the lowest purchasing power in the history of the minimum wage and we have the most extraordinary prosperity. And then they insult these workers even further by adding a $75 billion tax break over 10 years. And then we just heard about the difficulty we are having in conference about $1 billion on education because they say we cannot afford to do things, but the same side is suggesting a $75 billion tax break. Where are they getting their money? So it is a cynical play.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CRAPO). Who yields time?

Mr. DOMENICI. Mr. President, I yield 5 minutes to the Senator from Minnesota off our time.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. I thank the Senator from New Mexico.

Mr. President, I rise today to offer my enthusiastic support for the package of tax proposals introduced by Senator DOMENICI. I'm enthusiastic, in part, because it contains a provision that is very important to me—above-the-line deductibility of health insurance for individuals.

Over 40 million American workers didn't have health insurance in 1997. The number has increased in the last two years to 44 million. This is disturbing, but I believe there is something Congress can do to help without resorting to a national health care system.

Mr. President, when employers purchase a health plan for their employees, he or she can fully deduct the costs of providing that insurance, effectively lowering the actual costs of providing coverage.

However, when an employee purchases an individual policy on their own, they must do so with after tax-dollars. They don't have the ability or the advantage offered to employers to reduce the actual costs of the policy by deducting premiums from their taxes every year. Therefore, they often wind up without any health coverage at all.

Earlier this year, I introduced the Health Care Access Act, which would have ended this discrimination within the Tax Code and make health care available for many more Americans by allowing the full deduction of health insurance for those without access to employer-subsidized health coverage.

We have a tax code that discriminates against some, while favoring others. Clearly, this results in fewer people being covered.

The amendment before us today takes a slightly different approach, but its goal is the same—to level the tax-playing field. By allowing individuals without access to employer-sponsored health insurance, or those whose employers do not cover more than 50 percent of the cost of coverage, to deduct those costs regardless of whether they itemize or not, we can address a growing segment of our uninsured population by doing this.

Under this amendment, from 2002 to 2004, eligible employees can deduct 25 percent of costs, 35 percent in 2005, 65 percent in 2006, and 100 percent after that.

If there are no changes in the health care system and no significant downturn of the economy, we can expect the number of uninsured to reach 53 million over the next ten years. This translates into 25 percent of non-elderly Americans without coverage.

Forty-three percent of the uninsured are in families with incomes above 200 percent of the federal poverty level. Twenty-eight percent of the uninsured work for small firms and 18 percent of all uninsured are between the ages of 18 and 24.

The question that comes to mind is, if we're experiencing record growth in our economy and the unemployment rate is declining, why is the number of uninsured continuing to rise? The answer is costs.

In the event a small business can offer a health plan to its employees, many times it is at a higher cost to the employee than it would be if the employee were to have a job at a larger firm. In this instance, employees have to decide if they believe their health status is such that they can go without health insurance, or if they should spend after-tax dollars to pay for a larger portion of their health insurance. Here is where we have the difficulty.

Individuals employed by small businesses which can't afford to pay more than 50 percent of the monthly premiums for their employees should be able to have the same tax advantage as the employer in paying for their health insurance. Under our plan today, they will. In fact, because the tax deduction is what we call ''above-the-line,'' meaning if would be available to everyone—even if they don't itemize their taxes—we attack the most significant barrier to health coverage again, which is its costs, and move closer to eliminating all barriers to health coverage.

In other words, get more Americans covered by allowing them the deductibility of the costs.

I am also pleased that this amendment includes many other important components such as pension reform and small business tax relief.

We are talking about tax relief for small businesses, not the wealthiest as you hear from the other side of the aisle, but tax relief pinpointed at the hard-working Americans in this country who are also job providers.

Retirement income security is crucial for millions of American workers. This amendment reforms and enhances current pension laws to ensure workers will achieve income security upon retirement. It repeals the unnecessary temporary FUTA surtax, which has become a burden to many small businesses. The amendment allows millions of self-employed Americans to deduct 100 percent of their health insurance costs. This is a critical provision because 61 percent of the uninsured in this country are from a family headed

by an entrepreneur or a small business employee.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAMS. I ask for 2 more minutes.

Mr. DOMENICI. I yield the Senator 2 additional minutes.

Mr. GRAMS. In wrapping up, the amendment increases small business expensing to $30,000. This change alone means an extra $3,850 in tax savings for each small business in new equipment next year. This amendment also allows small business to increase the meal and entertainment expense tax deduction. The Work Opportunity Tax Credit has helped millions of Americans leave welfare programs and become productive workers in our economy. This amendment makes the WOTC permanent, so small businesses and former welfare recipients will continue to benefit from the Work Opportunity Tax Credit.

It seems unfair to me that in a time of prosperity we hear our colleagues on the other side talking about tax increases. Again, in their plan, they would impose new, even higher taxes. They talk about minimum wage; they are taxing and taxing and taxing those people as they enter the job market. What we need is a plan that will reduce taxes, not increase taxes.

America's small business is the key to our economic growth and prosperity. The health care, pension reform and tax relief measures included in this amendment will help small business continue to work for America and will allow millions of Americans to realize the American Dream.

Again, that is why I rise today to enthusiastically offer my support for the tax package proposed by Senator DOMENICI.

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, how much time does each side have remaining?

The PRESIDING OFFICER. The Senator from New Mexico controls 11 minutes 40 seconds; the Senator from Massachusetts controls 13 minutes.

Mr. DOMENICI. How much time would you like, I ask Senator NICKLES?

Mr. NICKLES. Four or 5 minutes.

Mr. DOMENICI. I yield 4 minutes to Senator NICKLES.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, first, I commend my colleague from New Mexico for the work that he has done in providing a more realistic substitute. But the first vote we are going to have today is voting on a motion to table the Kennedy amendment. I urge my colleagues to vote against the Kennedy amendment for a lot of different reasons, one of which is that it dramatically increases the minimum wage—about 20 percent over the next 13½ months. That is a big hit for a lot of small businesses. I am afraid it will prevent a lot of people, low-income people, who want to get their first jobs—they may not be able to get them. Estimates by some of the economists, CBO, and others, are that it could be 100,000 people; it could be 500,000 people that lose their jobs. It is a big hit.

There are a lot of other reasons to oppose the Kennedy amendment. How many of our colleagues know it has a $29 billion tax increase, that it extends Superfund taxes? We do not reauthorize the Superfund Program, but we extend the taxes. Many of us agree we need to extend the taxes when we reauthorize the program, but not before and that is in there anyway.

There is a tax increase on business. I received a letter from all the business groups opposing it. It is practically an IRS entitlement program, so they can go after anything they want.

It deals with ''Noneconomic attributes,'' whatever that means, it is a $10 billion tax increase. It may sound good and some people say that it is just to close loopholes. But it is to give IRS carte blanche to go after anything and everything they want. We reformed IRS and curbed their appetite somewhat, and regardless of those efforts this would be saying: Hey, IRS, go after anybody and everybody.

There is also a provision in the Democrat proposal that hits hospice organizations right between the eyes.

I have put letters from outside organizations addressing this very issue on Members' desks so they may see it for themselves. I ask unanimous consent to print in the RECORD three letters from various hospice organizations.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION FOR HOME CARE,
Washington, DC, November 8, 1999.

DEAR SENATOR: The National Association for Home Care (NAHC) represents home health agencies and hospices nationwide. While generally speaking, NAHC is supportive of efforts to maintain a reasonable minimum wage, a proposed amendment to S. 625 creates serious concerns for hospices across the country.

The proposed amendment would create a civil monetary penalty for false certification of eligibility for hospice care or partial hospitalization services. This proposal would impose a civil monetary penalty of the greater of $5,000 or three times the amount of payments under Medicare when a physician knowingly executes a false certification claiming that an individual Medicare beneficiary meets hospice coverage standards. On its face, this provision is addressed only to those physicians that intentionally and purposefully execute false certifications. However, the impact of a comparable provision on the access to home health services, as added to the law as Section 232 of the Health Insurance Portability and Accountability Act of 1996, should caution Congress in expanding the provision to apply to hospice services.

Immediately after the physician community became aware of the 1996 amendment, physicians expressed to home health agencies across the country great hesitancy to remain involved in certifying the homebound status of prospective home health patients. The vagueness of the homebound criteria and the stepped up antifraud efforts of the Health Care Financing Administration brought a chilling effect to physicians. As a result, home health agencies reported that physicians became less involved with homecare patients rather than increasing their involvement as had been recommended by the Office of Inspector General of the U.S. Department of Health and Human Services.

We believe that a comparable physician reaction will occur if this provision of law is extended to hospice services. A recent study reported in the Journal of the American Medical Association indicates that many eligible people may be denied Medicare hospice benefits because the life expectancy of patients with a chronic illness is nearly impossible to predict with accuracy. Medicare requires that the patient's physician and the hospice medical director certify that the patient has no more than six months to live in order to secure entitlement to the Medicare hospice benefit. The foreseeable result of the proposed amendment would be to further discourage physicians from utilizing hospice services for terminally ill patients. The existing scientific and clinical difficulties in accurately predicting the life expectancy of a patient combined with the threat of additional civil monetary penalties will adversely affect access to necessary hospice services. The experiences with home health services indicate that physicians distance themselves from the affected benefit. While the standard of applicability relates to a knowing and intentional false certification, physicians will react out of fear of inappropriate enforcement actions.

There are already numerous antifraud provisions within federal law that apply to the exact circumstance subject to the proposed civil monetary penalties. These existing laws include even more serious penalties such as the potential for imprisonment for any false claim.

We would encourage the Senate to oppose this provision, generally, and in particular, because it is contained in a non-germane legislative effort to increase the federal minimum wage. There is no evidence that physicians engage in any widespread abuse of the Medicare hospice benefit. To the contrary, evidence is growing that hospice services are underutilized as an alternative to more expensive care.

Thank you for all of your efforts to protect senior citizens in our country.

Sincerely,

VAL J. HALAMANDARIS.

HOSPICE ASSOCIATION OF AMERICA,
Washington, DC, November 8, 1999.

DEAR SENATOR: On behalf of the Hospice Association of America (HAA), a national association representing our member hospice programs, thousands of hospice professionals and volunteers, and those faced with terminal illness and their families, I am requesting your support to reject a proposed amendment to S. 625 that would apply civil monetary penalties for false certification of eligibility for hospice care.

It is often difficult to make the determination that a patient is terminally ill (life expectancy of six months or less if the terminal illness run its normal course), because the course of terminal is different for each patient and is not predictable. In some rare cases patients have been admitted to hospice care and have improved so as to be discharged from the program. The determination regarding the terminal status of a patient is not an exact science and should not be judged harshly in retrospect.

In a recent edition of JAMA, The Journal of American Medical Association, researchers reported that the recommended clinical prediction criteria are not effective in a population with a survival prognosis of six

months or less. According to Medicare survival data, only 15 percent of patients receiving Medicare hospice survive longer than six months and the median survival of Medicare patients enrolled in hospices is under 40 days. This information demonstrates what has been well known by those working in the hospice community, the science of prognostication is in its infancy and physicians must use the tools that are available, medial guidelines and local medical review policies developed by the Health Care Financing Administration, as well as their best medical judgment.

Physicians can not be punished for possible overestimation of a terminally ill patient's life expectancy. The only ones to be punished will be the patients in need of hospice services whose physicians will be denied from enrolling appropriate patients, thus denying access to this compassionate, humane, patient and family centered care at the end-of-their lives.

Please reject the proposed amendment to S. 625.

Sincerely,

KAREN WOODS,
Executive Director.

FEDERATION OF
AMERICAN HEALTH SYSTEMS,
Washington, DC, November 8, 1999.

Hon. DON NICKLES,
Assistant Majority leader, U.S. Senate, Washington, DC.

DEAR ASSISTANT MAJORITY LEADER: The Federation of American Health Systems, representing 1700 privately-owned and managed community hospitals has generally not taken a position on the minimum wage bill. However, we find it necessary to object to an amendment that will be offered today during consideration of the bill.

Specifically, we are concerned with an amendment that will apparently address ''partial hospitalization'' issues. While the Federation supports the goal of improving the integrity of the Medicare program by addressing concerns with partial hospitalization, we oppose its attachment to non-Medicare legislation. Clearly, any amendment that reduces Medicare trust fund spending should either be used to enhance the solvency of the trust fund, or for other Medicare trust fund purposes.

We appreciate your consideration of our position.

Sincerely,

THOMAS A. SCULLY,
President and CEO.

Mr. NICKLES. From the Hospice Association of America:

. . . . I am requesting your support to reject a proposed amendment to S. 1625 that would apply civil monetary penalties for false certification of eligibility for hospice care.

I have a letter from the Federation of American Health Systems urging opposition to the Kennedy amendment. I have a letter from the National Association for Home Care, also in opposition. It says:

We would encourage the Senate to oppose this provision, generally, and in particular, because it is contained in a nongermane legislative effort to increase the minimum wage.

The foreseeable result of the proposed amendment would be to further discourage physicians from utilizing hospice services for terminally ill patients.

Do we want to do that? I don't think so. Certainly we shouldn't do it in this legislation. Let's have hearings to find out more about this. Let's do it in Medicare reform. Let's do it when we have a chance to know exactly what we are doing because this is strongly opposed by hospice organizations.

I encourage my colleagues to oppose it for all the above reasons. I urge them to vote yes to table the Kennedy amendment. We will move to table it at the appropriate time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise in support of the Kennedy amendment that we will be voting on shortly. It is important to note that 59 percent of the over 11 million workers who would receive a pay increase as a result of this minimum wage are women—women, by and large, with children; women who, because the minimum wage is so low today, are working two, three, four jobs. Those losing out in the country today because of the lack of a minimum wage increase are our children. They are being left home alone. They aren't getting the attention they deserve. They are not getting the support they deserve. A vote for the Kennedy amendment is a vote for our children.

While I have the floor, I understand the Senator from Pennsylvania came to the floor this morning to question the President's constitutional authority to insist on reducing class size. I remind our colleagues, reducing class size is something we as Democrats have fought for, stood behind, and we stand behind the President in the final budget negotiations. This is not about constitutional authority. It is about making sure young kids in first, second, and third grade get from a good teacher the attention they need in order to read and write and do arithmetic. That is a bipartisan agreement we all agreed upon a year ago, $1.2 billion to help our local schools reduce class size.

To renege on that commitment 1 year later and to have language which takes that money and gives it to whatever else school districts want to use it for sounds good except we lose out. A block grant will not guarantee that one child will learn to read. A block grant will not guarantee that a child who needs attention will have it on the day he or she needs it. A block grant will not assure that our children get the attention they deserve and learn the skills they need.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mrs. MURRAY. I ask for an additional 30 seconds.

Mr. KENNEDY. Thirty seconds.

Mrs. MURRAY. Mr. President, what we as Democrats are going to stand strong for is a commitment we made a year ago to assure that every child in first, second, and third grade gets the attention they deserve. If our Republican colleagues want to add additional money to the budget for block grants, for needs in our schools that we agree are important, we are more than happy to talk to them about it. But we believe the commitment we made a year ago is a promise that should be kept.

I thank the Chair and yield the floor.

Mr. KENNEDY. How much time, Mr. President?

The PRESIDING OFFICER. The Senator from Massachusetts controls 10 minutes 34 seconds. The Senator from New Mexico controls 8 minutes 23 seconds.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

I again thank the Senators from California and Washington for illustrating in very powerful terms what this issue is all about. It is about working women and families.

With all respect to my friend from Oklahoma, when we had an increase in the minimum wage a few years ago, the Republicans fought it. They said that it would harm the economy and adversely impact small business. In the measure I have introduced we have tried to provide some relief for small businesses and we have paid for it. Now we can't do that because we have some kind of offsets. Therefore, we can't do it.

The fact is, the Republicans are opposed to any increase in the minimum wage. That is the fact. They have been opposed to it even at a time of extraordinary prosperity. This minimum wage affects real people in a very important way, and there is no group in our society it affects more powerfully than women and children. They are the great majority of the earners of the minimum wage, and increasingly so.

These days parents are spending less and less time with their families. In the last 10 years, parents were able to spend 22 hours a week less with their families. Read the Family and Work Institute's report of interviews with small children who are in minimum-wage families. They are universal in what they say. They all say: We wish our mother—or our father—would be less fatigued. We wish they had more time to spend with us. We are tired of seeing our parents come home exhausted when they are working one or two minimum-wage jobs.

That is what this is about. It is about the men and women at the bottom rung of the economic ladder. Are they real? Of course they are real. I have read the stories. We know who they are. They are out there today, this morning, as teacher's aides in our schools. These teacher's aides are working with young children, our future, and yet they don't earn enough to make ends meet.

They are there in the day-care centers. We know that day-care center workers are often at the bottom of the pay scale, earning the minimum wage. As you can see from this graph the purchasing power of the minimum wage

has declined since the last increase. As their wages lose purchasing power, turnover in low paying jobs like child care attendants and those who are working in nursing homes, increases. When people are forced to leave these jobs, there is a deterioration in quality of the service day care centers and nursing homes can offer.

This is about the most important element of our society. It is about fairness. It is about work. We hear all of these speeches on the other side of the aisle about the importance of work. We are honoring work. We are talking about men and women with dignity who have a sense of pride in what they do and are trying to do better and are trying to look out after their families. They are being given the back of the hand by the Republicans.

Their proposal is a sham. It is a raw deal for these workers. On the one hand, they are dribbling out an increase in the minimum wage; on the other hand, they are taking away overtime for 73 million Americans, and in the meantime, they are giving tax breaks to the wealthiest individuals in our society. That is a sham. Beyond that, they say the minimum wage, if we are even fortunate enough to get it to pass the Senate, will never go to the President because the Republican leadership has made a commitment to whoever it might be that it will never go there. That is what we are up against.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. KENNEDY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I say to my friend from Massachusetts that I can yell as loud as he. But today I won't do that because I believe we have a great bill and a great position.

The Republicans do support the minimum wage. In fact, they are going to vote for the minimum wage that I propose. That is, instead of a dollar coming in two installments, it will come in three, of 35 cents, 35 cents, and 30 cents. Frankly, there will be an overwhelming vote in favor of that.

In addition, we took the opportunity to give small business and some other absolutely necessary situations that need it tax relief. We chose in this bill to do that. Those have been explained fairly well. I will take a minute at the end of my remarks to explain them one more time.

I suggest that the Democrats are living in an era that has passed.

If they were here on the floor in the 1930s, they would have a case. They would have a case that the minimum wage is going to affect poor families supporting their children. That was the issue in the 1930s. But I suggest the best research today says that day is gone in terms of who is impacted by the minimum wage. It is more likely to impact a teenager than it is the head of a household. The fact is, 55 percent of the minimum wage applies to people between the ages of 16 and 24. The overwhelming number of those are teenagers in part-time jobs, working in McDonald's-type restaurants across America. They need these jobs. They don't even stay in the minimum-wage position very long, according to the research we have seen. If they work well and choose to follow the rules and the orders and do an excellent job, they are raised above the minimum wage rather quickly.

To put it another way, to show that the arguments about who benefits from the minimum wage are passe 1930 arguments, two-thirds of all minimum-wage people are part-time employees. The fact is, the argument that these are women heads of households is absolutely dispelled by reality. The best we can find out is that 8 percent of the minimum-wage employees in America today are women heads of households, not the numbers or the tenor and tone of the argument about the slap of the hand we are giving to those who work in America. Quite the contrary.

Our minimum wage reflects a sufficient increase to match up with inflation, and we permit many people an opportunity to get into the job market. In fact, we make permanent one of the best taxes we have, which is now there on an interim basis. It says if you hire minimum-wage workers out of the welfare system, and you want to take a chance because they aren't capable of doing the jobs and you need to train them, you get a credit for that. That is a very good part of the Tax Code. We make that permanent so it costs something and it uses up some of our tax money.

As to the argument of how big this tax cut is, it is 12.5 percent of the total tax package that the Republicans offered, which passed here and the President vetoed. It tries something very new and exciting. It says to Americans who want to buy their own insurance—because their employers don't furnish it—for the first time, they are going to be permitted to deduct the entirety of their health insurance. Heretofore, they were punished if they tried to buy it, penalized because they didn't get to deduct it while everybody else did. We also made permanent the allowance that the self-employed can take the insurance deduction. We raise that to 100 percent. Everybody knows that is good. Everybody knows that helps with the problem of the uninsured in America, and that is good.

So, for all the talk, the Republicans have come forward with a very good bill. I am very pleased that I suggested to the Republicans the basics of this bill, that we ought to do it in three installments. Some wanted to make it longer. Actually, I think this is exactly the right length of time. Add to that the kind of tax relief we have provided versus the tax increases on that side, and it seems to me there is no choice.

While everybody is clamoring to do something about the estate tax because it is a very onerous tax, as if to try to punish people, in a minimum-wage bill they raise death taxes and inheritance taxes. I don't care what kind of American they impose it on. We don't have to do that when we are reforming that system because it is somewhat confiscatory. I could go on, but if anybody has any doubt, the gross tax increase under the Democrat package is $12.5 billion over 5 years, and a $28.9 billion tax increase over 10 years. What in the world are we increasing taxes for at this point? To pay for a minimum-wage bill? Of course not. It is because they want other tax relief and they choose to raise taxes to give the benefit to someone else. There is sufficient surplus. This is a very small tax cut in our package—12.5 percent of what we perceived was adequate and what we could do about 4 months ago with the surpluses we have. The President proposed $250 billion, $300 billion in tax relief. In this bill, they raise taxes rather than take advantage of what we know is the right thing; that is, to reduce taxes in these economic times.

I reserve my remaining time.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes 49 seconds. The Senator from New Mexico has 1 minute 51 seconds.

Mr. KENNEDY. I yield 3 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. The Senator from New Mexico said he wasn't going to yell. He got a little close to it. But when I hear the yells on that side of the aisle, it is usually related to their passion for helping the wealthiest among us.

The Senator from New Mexico says that the Democrats are living in the past because we want to increase the minimum wage. Well, I have news for the Senator from New Mexico. Compassion for the poorest in our society, those at the bottom rung of the ladder, that is a timeless value; that is a moral value; that is a religious value; that is a value we ought to be proud to have around here. That is not living in the past. Come to Los Angeles, I say to my friend from New Mexico, or look around your big cities. What you will notice is that the people who are living on the minimum wage are adults. We know that to be the fact. A majority of minimum-wage workers are adults—70 percent of them.

In the Democratic proposal, out of those who will benefit from this modest increase, 60 percent of them are women. So if you want to say that we are living in the past, you can say it all you want. But it isn't true.

We saw in September a very chilling story in the L.A. Times about the working poor in Southern California. The National Low-Income Housing Coalition shows that given the high cost of a two-bedroom apartment in L.A., a minimum-wage earner must work 112 hours per week in order to make ends meet.

In San Francisco, it is even worse. A person would have to work 174 hours at minimum wage in order to pay their bills. According to a recent study of the Nation's food banks, 40 percent of all households seeking emergency food aid had at least one member who was working. That is up from 23 percent in 1994.

Low-paying jobs, I say to my friend from New Mexico, are the most frequently cited cause of hunger today, according to this well-documented L.A. Times story.

The L.A. Times, by the way, is now owned by Republicans. So this isn't a question of yesterday, I say to my friend. It is a question of living today. They have made the same arguments every time we raised the minimum wage. The last time they said it would bring the economy down. We have never seen such a strong economy. If the people at the bottom rung are left behind, it is morally wrong and it is economically wrong. It makes no sense. Those are the folks who go out and spend what they earn and they definitely stimulate the economy.

So for anybody to say you are living in the past if you support a minimum-wage increase, they don't know what is going on today. I say that from my heart. I have respect for the Senator from New Mexico, but I think it is insulting to say one lives in the past for wanting to fight for those at the bottom rung of the economic ladder—those women and those children who are living in poverty.

I thank the Chair.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 3½ minutes. The Senator from New Mexico has 1 minute 51 seconds.

Mr. KENNEDY. I yield a minute to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, to make a couple of quick points, I was terribly saddened to see as part of another bill that we have a further reduction in child care provisions, which is a major blow again to working families out there. We all know that quality child care makes a difference for these children. In the midst of all of this, we are obviously told you have to come up with some offsets to pay for the provisions in this bill, which we do.

Offsets always attract opposition from one quarter or another. But these are modest offsets to pay for the provisions in the bill. What is going to happen later today we are going to vote on $75 billion in tax cuts and 56 percent of them go to the top 20 percent of income earners, and there are no offsets—none.

One of the great contradictions is, we are being accused of not liking the offsets, the pays, from some of the provisions and simultaneously we ask our Members to vote for a provision in the bill or vote for the whole bill, including a $75 billion tax cut over 10 years with no offsets.

Let me underscore, as this millennium date of 50 days away approaches, those at the bottom of the economic rung—working people, the majority who receive the minimum wage and are working full time; they are women, they are Hispanic, they are black—deserve to get a fair shake out of this Senate. In a few minutes, we will have an opportunity to give them that fair shake by providing an increase in the minimum wage, allowing them to enjoy the prosperity of the booming economy.

I yield the floor.

Mr. KENNEDY. Mr. President, it is important to understand exactly what the situation is for our working poor. The number of full-time, year-round workers living in poverty is at a 20-year high: 12.6 percent of the workforce, says the Bureau of Labor Statistics, as of the last 3 days. That is the fact. People are working harder, and they are living in poverty. These are people who value work.

Second, the Bureau of Labor Statistics shows that, of those who will benefit from a minimum wage increase, 70 percent are adults over age 20, and about 30 percent will be teenagers.

If Senators come to Boston and talk to the young people going to the University of Massachusetts, they will find 85 percent of their parents never went to college and 85 percent of them are working 25 hours a week or more. That is true in Boston, in Holyoke, in New Bedford, and Fall River, and cities across the country. I don't know what Members have against working young people who are trying to pay for their education. We have 6 million working in the workforce, and we have 2 million working at the minimum wage. Why are we complaining about that?

The Republican proposal is a Thanksgiving turkey with three right wings. It has a watered-down increase in the minimum wage, it has a poison pill for overtime work, and it has juicy tax provisions for the rich. This Republican turkey is stuffed with tax breaks, and it does not deserve to be passed. Vote for the real increase in the minimum wage; vote for the Daschle increase.

Mr. LEVIN. Mr. President, as the most prosperous nation in the world, our minimum wage should be a living wage, and it is not. When a father or mother works full-time, 40 hours a week, year-round, they should be able to lift their family out of poverty. $5.15 an hour will not do that. A full time minimum wage job should provide a minimum standard of living in addition to giving workers the dignity that comes with a paycheck. The current minimum wage does not pay a fair wage.

I support the legislation introduced by Representative DAVID BONIOR in the House and Senator TED KENNEDY in the Senate which increases the minimum wage. This legislation, the Fair Minimum Wage Act, will provide a 50 cent increase to the minimum wage on January 1, 2000, and a second 50 cent increase on January 1, 2001. This would raise the minimum wage to $6.15 per hour by the year 2001.

The minimum wage increase passed in 1996 prevented the minimum wage from falling to its lowest inflation adjusted level in 40 years. The proposed minimum wage increase to $6.15 in 2001 would get the minimum wage back to the inflation adjusted level it was in 1982.

In this era of economic growth, raising the minimum wage is a matter of fundamental fairness. We must look around and realize that we have the strongest economy in a generation. However, even with our strong economy, the benefits of prosperity have not flowed to low-wage workers. A full time minimum wage laborer working forty hours a week for 52 weeks earns $10,712 per year—more than $3,000 below the poverty level for a family of three. The poverty level for a family of three is $13,880.

Some people are saying that it is not time for a minimum wage increase, that we just raised the minimum wage in 1996 and in 1997. According to the Bureau of Labor Statistics, since the last minimum wage increase of 1996–97, the national unemployment rate has fallen to 4.1%. Not only that, the unemployment rate has dropped in Michigan, it is now 3.4%—lower than the national rate. It is only right that we help these minimum wage earners when the economy is booming.

Retail jobs are often cited as the industry hit hardest by an increase in the minimum wage. However, according to the Bureau of Labor Statistics, 38,900 new retail jobs have been added in Michigan since the last minimum wage increase. Moreover, in Michigan, since September of 1996, 206,000 new jobs have been created. The opponents claimed that the 1996 minimum wage increase would devastate the economy, yet clearly, this has not been the case.

According to the United States Department of Labor, 60% of minimum wage earners are women; nearly three-fourths are adults; more than half work full time. Under the Fair Minimum Wage Act, approximately 243,000 Michiganders would get a raise. These hardworking Americans deserve a fair deal.

The Fair Minimum Wage Act will increase the real value of the minimum wage in 2001 to the purchasing level it was in 1982. It will generate $2,000 in potential income for minimum wage workers. This $2,000 will make an enormous impact on minimum wage workers and their families.

Opponents of the minimum wage have said that the minimum wage hurts low income workers. This is not the case. In 1998, seventeen economists, including a Nobel Prize winner, a former president of the American Economics Assn. and a former Secretary of Labor, wrote to President Clinton, supporting an increase in the minimum wage. These experts determined that

the 1996 and 1997 increases had a beneficial effect, not only on those whose earnings were increased, but also on the economy as a whole. In addition to directly impacting workers, billions in added consumer demand helped fuel our expanding economy in those years.

With a prosperous economy, it is only fair that we also reward those who are at the low end of the pay scale spectrum. These people do not always have the leverage to negotiate a fair salary. It is necessary that we act to ensure that they receive a livable wage.

Mr. JEFFORDS. Mr. President, I rise today in support of an increase in the Federal minimum wage. I strongly believe that the time has come to raise the minimum wage again and that we should raise the minimum wage by a $1.00 an hour increase over the next 2 years.

The minimum wage is not the only way—or even the best way—to give folks in need a helping hand to get out of poverty. But I do believe that it should at least keep pace with inflation. Unfortunately, that is not happening. Today's minimum wage is 19 percent below the 1979 level. To give you a better idea of what this means for working families, consider that a minimum wage employee working full time earns about $10,700 a year—more than $3,000 below the $13,880 poverty line for a family of three. Workers deserve better. At a time when our economy is booming, we should not allow this trend to continue. Instead, we must continue to raise the minimum wage to keep pace with the rising cost of life's basic needs

My home State of Vermont recently raised the minimum wage to $5.75 an hour in response to its awareness of the cost of living. Let's follow its lead, a dollar-an-hour increase in the Federal minimum wage will put $2,000 a year in the pockets of working families at or near the poverty line. And given that 2 years has passed since the last increase, small businesses have had the time to adjust. Although this money will not solve all the problems of the working poor, it will go a long way toward helping minimum wage workers obtain basic needs for themselves and their families.

In addition to raising the minimum wage, there are many other things that Congress can and should do to assist low wage workers and their families. We must continue to search out and support targeted solutions such as the Earned Income Tax Credit (EITC). The EITC provides some 20 million low-income households with a refundable tax credit. Last year, the EITC enabled a worker earning minimum wage, who was either a single parent or the sole wage earning parent of dependent children, to receive up to $ 3,816 in additional income.

Along with measures that will raise take home pay, I know that we can do more to assist low-income families with their basic needs. Over the past few years, an organization in Vermont called the Peace and Justice Center has examined how low wage workers and their families were faring in my home State. The Vermont Wage Gap Study showed that while we are enjoying one of the most extraordinary economic booms in the history of our country, thousands of workers in my home State are having great difficulty making ends meet. The study found that the cost of meeting basic needs is more than many of Vermont's low income workers are earning.

For example, the Vermont Job Gap Study indicated that child care and health care are among working families largest expenses. Over the past few years, I have been pushing for national child care legislation to assist these working families with their child care needs. On the health care side, we were able to enact the Children's' Health Insurance Program which is helping to improve children's health for working families who cannot afford health coverage for their children. In addition, we should help low income workers in obtaining health insurance. I am currently working on a proposal that would provide uninsured and under-insured workers with the money they need to buy health insurance.

But the predominant factor influencing an individual's ability to support his or her family is not to be found in the minimum wage or the tax code. Study after study has found it is education. Simply put, you earn what you learn. I urge my colleagues to work with me on continuing to pass legislation aimed at improving our educational systems, and job training programs. It is my hope that these efforts will improve the skills and employability of our workforce and will enable low-wage workers to obtain better paying jobs.

I would like to add that I think it is entirely appropriate that an increase in the minimum wage be accompanied by tax breaks for those who will have to shoulder higher wage costs, especially small employers. And I strongly favor several of the tax breaks in this amendment. In particular, I support acceleration of deductibility of health insurance costs for the self-employed; increasing the amount of equipment purchases that small businesses can deduct each year; and providing tax credits to employers who provide on-site child care. At the same time, some of the tax provisions bear little relationship to the impact of a minimum wage hike on small businesses. In addition, I am concerned that we have not had adequate time to explore the implications and effects of all of the tax provisions. My vote in support of this amendment should not be read as an endorsement of each and every tax provision, but rather reflects my fundamental belief that the time has come for a minimum wage increase.

Lastly, I would comment on the language in Senator KENNEDY's amendment increasing disclosure to participants of cash balance pension plans and prohibiting so-called benefit ''wear-aways''. This language is being offered in response to the conversion of hundreds of traditional defined benefit pension plans into cash balance or other hybrid arrangements. I believe that legitimate concerns have been raised that notices about the plan changes that were sent to participants have been insufficient. In fact, until recently many workers have been unaware that their plan was amended to significantly reduce the rate at which they are earning benefits. While pension law only requires employers to pay what an employee has actually earned under the plan, when these changes are made toward the middle of a worker's career, the effect can be devastating.

This legislation will help workers better understand what the changes in their plan mean for their retirement plans. It requires plan sponsors to give participants notice of the conversions in a more timely fashion, in plain English and on an individualized basis. In the words of my colleague Senator MOYNIHAN, this disclosure requirement helps to make cash balance conversions transparent for the plan participants. I feel this change is warranted and urgently needed.

But this amendment does more. It also prohibits an unfortunate pension practice called the benefit ''wear-away''. When some plans are converted, workers with long-years of service may not earn any benefits for a number of years. I believe this practice is unfair. There is no reason why an individual with 20 years of service should not earn any benefits while a younger worker earns benefits immediately. The language in this amendment will effectively prohibit wear-aways.

As we conclude the first session of the 106th Congress, I hold steadfast in my belief that Congress must do everything in its power to help working families. The time has come to raise the minimum wage and give the workers who are depending on it a better shot at self-sufficiency. I believe that a $1.00 increase over the next 2 years will certainly help. However, I also believe that a slower increase is better than none at all. Therefore if we do not have the votes in the Senate to pass a 2-year increase, I will also support a 3-year increase.

Mr. SARBANES. Mr. President, I rise in strong support of Senator KENNEDY's amendment to raise the Federal minimum wage. I am proud to be an original co-sponsor of the legislation upon which this amendment is based to raise the minimum wage 50 cents a year over the next two years, bringing it to $6.15 per hour by the year 2001.

For more than half a century, Congress has acted to guarantee minimum standards of decency for working Americans. The objective of a Federal minimum wage is to make work pay well enough to keep families out of poverty and off Government assistance.

Any individual who works hard and plays by the rules should be assured a living standard for his or her family that can keep them out of poverty.

If nothing is done during the year 2000, the real value of the minimum wage will be just $4.90 in 1998 dollars—about what it was before Congress last acted to increase the minimum wage in 1996. The proposed increase would restore the wage floor slightly above its 1983 level, still leaving it 13% below its 1979 peak. No one asserts that raising the minimum wage will correct every economic injustice, but it will certainly make a significant difference to those on the low end of the economic scale. We have the opportunity to enact what is in my view a modest increase to help curb the erosion of the value of the minimum wage in terms of real dollars, and it is an opportunity which we should not let pass us by.

Currently, a full-time minimum wage worker earns just $10,712—$3,000 below the poverty level for a family of three. In 1998, about 4.4 million wage and salary workers, paid hourly rates, earned at and below the minimum wage—about 1.6 million at the minimum rate and 2.8 million below the minimum. A dollar increase in the minimum wage would provide a minimum wage worker with an additional $2,080 in income per year, helping to bring that family of three closer to the most basic standard of living. This extra income will help a family pay their bills and quite possibly even allow them to afford something above and beyond the bare essentials.

According to the Department of Labor, 70 percent of workers who will benefit from an increase in the minimum wage are adults, 46 percent work full time, 60 percent are women and 40 percent are the sole breadwinners in their families. Mr. President, these are not the part-time workers and suburban teenagers many opponents of the minimum wage increase would have you believe.

After 30 years of spiralling deficits, we now have budget surpluses projected, unemployment is at a 25-year low, and inflation is at a 30-year low. However, despite this period of economic prosperity, the disparity between the very rich in this country and the very poor continues to grow. According to the Economic Policy Institute, projections for 1997 indicate that the share of the wealth held by the top 1 percent of households grew by almost 2 percent since 1989. Over that same period, the share of the wealth held by families in the middle fifth of the population fell by half a percent. In light of these estimates, consider that the Department of Labor predicts that 57 percent of the gains from an increase in the minimum wage will go to families in the bottom 40 percent of the income scale.

It is both reasonable and responsible for Congress to enact measures which provide a standard that allows decent, hard-working Americans a floor upon which they can stand. We did it back in 1996 when we approved, by a bipartisan vote of 74–24, a 90 cent increase in the minimum wage bringing it to its current level of $5.15 per hour, and it is appropriate to do it here again. With the economy strong, we have a responsibility to reinforce this basic economic floor for millions of American workers to prevent them from sliding further into the basement.

This is, and always has been, an issue of equity and fairness for working men and women in this country. I strongly urge my colleagues to support this important amendment.

Mrs. LINCOLN. Mr. President, I support the Minimum Wage Proposal offered by Senator KENNEDY because it is fair and responsible. It provides a minimum wage increase to 228,000 Arkansans and 11 million workers nationwide, most of whom are women. It provides important tax relief directly to small businesses to help defray costs of a wage hike. And, perhaps most importantly, it pays for the tax cuts by: offsetting tax adjustments on large estates valued at $17 million and above, which the Senate voted overwhelming to do in 1997; extending the tax imposed on corporate income for Superfund, which I hope will encourage Superfund reform, and closing corporate tax shelters, which Congress has been trying to do since Ronald Reagan was in the White House.

A $1 increase in the minimum wage over 2 years is needed to restore the purchasing power or real value of the minimum wage, which has been greatly diminished over the last 20 years by inflation. In the United States, 59% of workers who will gain from a wage increase are women; 70% are adults age 20 and over, and 40% are the sole breadwinners for their families. The bottom line—this proposal will generate $2,000 in additional income each year for full-time minimum wage workers. As a mother of two young children who balances the check book every month and shops at the supermarket each week, I honestly don't know how a single parent who makes $5.15 an hour can feed their family and provide other basic necessities for their children.

I am also very supportive of the tax relief provisions in this amendment which will help those who will be most affected by a minimum wage increase—small business owners and family farmers. This common sense package will expand access to health insurance by letting self-employed individuals deduct 100 percent of their health insurance costs, a proposal I have supported for many years. I believe providing 100 percent deductibility now to small business owners and independent farmers is more urgent today than ever as our country experiences one of the worst farm crises in recent memory. Furthermore, I have never understood why we deny a benefit to sole proprietors that is currently available to many large corporations.

This package also includes another priority of mine—estate tax relief for family owned-farms and small business. Too often those who inherit a business or family farm from a relative must liquidate all or a portion of the property just to pay the estate tax which is owed.

Another provision will help business owners provide child care assistance to their employees by allowing a 25% tax credit for qualified costs. In addition, this amendment will encourage investment in economically depressed areas like the Delta region in Arkansas and strengthen retirement security for workers by reducing small businesses' cost of setting up employee pension plans.

Finally, I am hopeful that extending the tax imposed on corporate income for Superfund will be an added incentive to roll up our sleeves and pass meaningful Superfund reform legislation. I have worked on this issue since I came to Congress in 1993. I and millions of Americans are still waiting for Congress to fulfill its responsibility. I am sorry that our former colleague Senator Chafee, who was very passionate about this issue, died before Congress addressed Superfund reform.

But before I yield the floor, I want to emphasize an important aspect of this plan that should not go unnoticed—it is paid for and does not threaten our government's ability to meet future obligations to Social Security and Medicare beneficiaries. Republicans and Democrats have knocked themselves out over the last year trying to blame each other for spending the Social Security trust fund, so I fail to understand how we can consider a proposal which costs $75 billion over ten years with virtually no means to pay for it. That is irresponsible and I can't support it.

In short, Mr. President, the Kennedy amendment is a common sense proposal that is good for both employers and employees and I hope my colleagues on both sides of the aisle will stand with me in supporting this legislation.

I thank my colleagues and yield the floor.

Mr. KERRY. Mr. President, since 1938 we have had a minimum standard we accept as the lowest possible wage in our society. Today we are engaged in debate about the need to raise that standard. The modest proposal before us seeks to raise the minimum wage by $1.00 over the next two years. Even then—even if we succeed in doing what is so obvious, so reasonable, and so fair—Mr. President the real value of the lowest acceptable wage will only reach what it was in 1982, over 17 years ago. We're not really talking about an increase here, we're talking about trying to keep pace, about making work pay, about restoring minimum wage workers to the purchasing power they had nearly two decades ago.

Mr. President, opponents of a minimum-wage increase argue that it increases unemployment rates for entry-level workers, thereby hurting the very

people it is meant to help. But this is not a radical proposal—as some Republicans claim—that will cause a dramatic spike in the unemployment rates and cripple small business. Numerous empirical studies, Mr. President, have found that recent hikes in the minimum wage have had little or no effect on job levels. A 1999 Levy Institute survey of small businesses revealed that more than three-quarters of the firms surveyed said their employment practices would not be affected by an increase in the minimum wage to $6.00. A September New York Times editorial reported that ''. . . a modest hike is not likely to cause higher unemployment, even among low-skilled workers. Indeed, jobless rates fell after the 90-cent minimum-wage hike of 1996–7.''

We have not in the past nor are we now advancing a radical proposal that will reverberate dangerously throughout our economy. We are merely considering a moderate increase in our Nation's wage floor, one that will bring us just back to where we were nearly 18 years ago.

And while the increase is a modest one, it is crucial to today's working families. A $1.00 increase in the minimum wage will affect 11.4 million workers. Full-time workers will make an additional $2,000 each year. Many minimum wage jobs do not provide pensions or health care. An additional $2,000 each year might mean the difference between being sick and getting treatment, the difference between a sickly child and a thriving one. An additional $2,000 each year might mean the difference between being hungry and being fed.

Currently, a full-time minimum wage worker earns $10,712 per year—an income well below the poverty line for a family of three or four. Increasing the minimum wage will bring workers wages up to $12,800 per year, an income still below the poverty line for a family of three. So while we refer to the minimum wage as the lowest wage acceptable in our society, we must acknowledge that even after we pass this modest increase, a full-time minimum wage worker cannot safely raise a family on his/her earnings.

Right now we are facing the greatest wage inequality since the Great Depression. Income inequality between the Nation's top earners and those at the bottom has been widening since the early 1970s. The strong economy and these generally prosperous times cause us to overlook the struggles faced by hard-working families. The growing wage gap between the rich and poor threatens our social fabric and the stability of our Nation. It is our job in the Congress to ensure that stability is maintained—that hard-working individuals are paid a fair wage—that working families can afford the basic necessities of life—that we are the kind of country that values work—and which values the contributions of each working American. It is time we meet that responsibility.

Mr. FEINGOLD. Mr. President, I rise today to urge my colleagues to support efforts to increase the federal minimum wage by adopting the amendment offered by the Senator from Massachusetts, Mr. KENNEDY, the Fair Minimum Wage Act of 1999. This important amendment will provide American laborers with a 50-cent increase to the minimum wage on January 1, 2000, and a second 50-cent increase on January 1, 2001. This modest increase, which would raise the minimum wage to $6.15 per hour, will help more than 11 million lower income Americans.

Our country's economy is growing. Its economic vitality and the changes wrought by welfare reform have resulted in a better life for many working people—unless those workers are minimum wage workers, anchored to the bottom of the wage scale.

The truth is, even though the economy is roaring, wages at the bottom are stagnant, and hard-working people are still living in poverty. According to the Center on Budget and Policy Priorities, in the mid-1990s, there were 89,000 working poor families with children in Wisconsin. Seventy-four percent of those families had at least one working parent. And sixty-nine percent of these families had at least one working parent and still required some form of public assistance. In this time of a booming economy and low unemployment, these statistics are very troubling. Mr. President, the majority of the poor people of our country are working—the problem is that many of them are holding down low-paying jobs with stagnant wages that do not allow them to finally break free from poverty.

Despite successes in the welfare to work initiative, a 1998 U.S. Conference of Mayors study, entitled ''A Status Report on Hunger and Homelessness in American Cities,'' indicates that seventy-eight percent of the 30 major U.S. cities surveyed reported an increased demand for emergency food assistance. Thirty-seven percent of those people seeking food at soup kitchens and shelters in 1998 were employed. City officials surveyed listed low-paying jobs as the top cause of hunger in their cities. It is an undeniable disgrace that, in many cases, minimum wage workers cannot afford to feed themselves or their families.

Mr. President, no hard working American should have to worry about affording groceries, shoes for their kids, or medicines. The people this amendment will help are not people who spend their money frivolously. These are the families who scrimp and save to provide their children with the necessities of life: a decent place to live, enough to eat, clothes on their back, a decent education, and some hope for a better future.

The study, ''The State of Working Wisconsin—1998,'' by the Center on Wisconsin Strategy, contains some troubling news regarding wages. The Wisconsin median hourly wage is still eight-point-four percent below its 1979 level. Since 1979, Wisconsin's median wage has declined fifty percent faster than the five-point-three percent national decline over the same period. These numbers are, sadly, not unique to Wisconsin. This is the situation all over the country.

And this is the situation that the Kennedy amendment will help to address. According to the Economic Policy Institute, more than 205,000 workers in my home state of Wisconsin, or fifteen-point-one percent of Wisconsin's workforce, will benefit from the modest increase in this amendment. Those are real people, Mr. President. Real people who deserve this modest raise in pay for the work they do to support their families and to keep the American economy moving.

Opponents of this increase argue that it will hurt the economy. The Bureau of Labor Statistics reports that the 1996 and 1997 raises in the minimum wage had a positive impact on the economy. Unemployment has dropped to four-point-one percent, the lowest mark in three decades. Nine-point-one million new jobs have been created. And there is no reason to believe that this proposed increase will not have the same result. In fact, history shows that minimum wage increases have not had a negative impact on unemployment.

This modest increase of 50 cents per year is really not a hike at all after inflation—over the next two years it will simply restore the real value of the minimum wage to its 1982 level. So by the time the second installment of this proposed increase would go into effect, the buying power of workers scraping by on the minimum wage will be only what is was when Ronald Reagan was a new president. Meanwhile, wages at the high levels have been climbing steadily while the real value of the minimum wage has eroded.

I urge my colleagues to begin to restore some respect for the dignity of work to the federal minimum wage. The lowest paid workers in America's labor force deserve a chance to earn a decent living and we need to give them the tools. I urge every Senator to support the Kennedy amendment. It is a vote to reward work and to support every American worker.

Mr. ROTH. Mr. President, there are a few brief observations that would serve us well as we engage in this debate over minimum wage. Through the years, members on both sides of this issue have been able to come together successfully, to effect minimum wage increases.

I believe we will be able to come together again, to advance a proposal that is good for individuals, as well as for economic growth and job creation. And I believe that in this effort it would be good to have such a common sense proposal follow the model of our actions in 1996.

As my colleagues know, three years ago we successfully enacted the Small

Business Tax Act, which provided reasonable tax relief for businesses most affected by the costs incurred with the minimum wage increase. The current minimum wage of $5.15—which took effect on September 1, 1997—was established in that act. Minimum wage agreements prior to 1997 followed a similar pattern of consensus building.

This year, as we again consider raising the minimum wage, there are a number of tax issues involved. The minimum wage amendment proposed by Senator DOMENICI includes a package of tax measures that were previously approved by the Senate Finance Committee. The Finance Committee has jurisdiction over these matters, and as these proposal had been previously vetted within our committee, I agreed to allow them to come straight to the floor.

On the other hand, I am concerned with the revenue offsets included in the minimum wage amendment proposed by Senator KENNEDY. Many of these provisions are controversial proposals which have been rejected by this Congress. And we need to be very careful as we proceed considering them.

What is important is that we progress on this important issue—that if we are unable to agree on a compromise in this session as we are so close to adjournment, we will be able to successfully conclude this matter soon after our return next year.

The PRESIDING OFFICER. All time of the Senator from Massachusetts has expired.

The Senator from New Mexico has 1 minute 51 seconds.

Mr. DOMENICI. I thank Senator KENNEDY for a good debate. It was pretty exciting for so early in the morning. The Senator is pretty energetic even at 9 o'clock.

However, let me close by saying our amendment saves small business and gives them an opportunity to grow and prosper and energize this economy; at the same time, it gives every opportunity for the young people in our country to get into jobs wherein they break into the marketplace, that first-level job, and get those kinds of jobs in sufficient numbers to be helpful for whatever they are doing. There are even high school students doing this. They are 50 percent of the minimum-wage people in this country.

I have nothing against them. I have eight children; six of them worked in restaurants before they went to college and saved enough money because I didn't have enough money to put them through, having that many children. I understand that. They worked hard. They got promoted.

Nothing could be further from the truth that we are trying to hurt young people, whatever their status. We want them and their employers to continue to have a mutual opportunity—mutual for the small business to energize the economy and mutual for job opportunity at the first level of employment in the American system.

If Members are speaking of women heads of households, they are not talking about the minimum wage today; they are talking about the minimum wage 30 years ago. Eight percent of the minimum-wage earners in America today are women with full-time jobs—not 30, 40, or 50; 8 percent.

Clearly, we are trying to give everybody an opportunity to get better training and move ahead in job opportunities in the United States.

I move to table the Kennedy amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2751. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS) is absent because of a death in his family.

The result was announced—yeas 50, nays 48, as follows:

{Rollcall Vote No. 356 Leg.}

YEAS—50

Abraham	Fitzgerald	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Roberts
Bond	Grams	Roth
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Campbell	Hatch	Smith (NH)
Cochran	Helms	Smith (OR)
Collins	Hutchinson	Stevens
Coverdell	Hutchison	Thomas
Craig	Inhofe	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Enzi	Mack	

NAYS—48

Akaka	Edwards	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Inouye	Reed
Breaux	Jeffords	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Chafee, L.	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Snowe
Daschle	Landrieu	Specter
Dodd	Lautenberg	Torricelli
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

NOT VOTING—2

Hollings	McCain

The motion was agreed to.

Mr. NICKLES. I move to reconsider the vote.

Mr. INHOFE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2547

Mr. DOMENICI. Parliamentary inquiry, Mr. President. What is the next order of business?

The PRESIDING OFFICER. There will now be 4 minutes of debate equally divided on the Domenici amendment.

Does the Senator from New Mexico wish to begin debate?

Mr. DOMENICI. I say to Senator KENNEDY, I am prepared to yield back my time. Are you?

Mr. KENNEDY. No. If we could have order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order. Senators please take their conversations off the floor.

Mr. KENNEDY. The Senator from Maryland would like to address this issue, and I yield her the time on our side.

I would insist on order, if I could.

The PRESIDING OFFICER. Senators please take their conversations off the floor. The Senate will be in order.

The Senator from Maryland is recognized for 2 minutes.

Ms. MIKULSKI. Mr. President, I rise in opposition to the Republican amendment. I believe it is a watered-down, slowed-down, pennies-to-the-poor approach.

Why raise the minimum wage? We are in the greatest prosperity that the United States of America has ever seen. We have the opportunity to raise the standard of living for the poor. I believe what we need to do, now that we have moved hundreds of thousands of people from welfare, is to make work worth it.

Who are the people we are talking about? We are talking about the working poor who raise our children, who care for our elderly, many working two or three jobs to hold the family together.

I believe we need to make a commitment to the working poor, as we cross into the new century, that if you live in the United States of America and you work, you should not be poor.

The amendment the Senator from Massachusetts proposed was modest. It was spread over a 2-year period. It would take us into 2001. Why should a day-care worker make less than someone who works 40 hours a week at a bank job? We need to make sure that in this country, in order to sustain the efforts we have made in improving the standard of living for people, if you work, you will not be poor.

I yield such time as I might have.

Mr. ABRAHAM. Mr. President, I rise to express my strong support for this important amendment. Without touching Social Security, it would provide significant assistance to millions of Americans struggling economically even during this time of sustained growth.

I believe this amendment demonstrates my party's continuing commitment to fostering economic growth and helping those in need. And we should not forget that, despite recent economic good times, there are many Americans who remain in economic need.

African-American youths continue to suffer from an unemployment rate

three times that of white youths. Hispanic youths suffer from an unemployment rate ten points higher than that of whites. And 8 million American families continue to live in poverty.

We can do better. We can do better.

I believe this amendment constitutes an important step forward in our drive to unleash the entrepreneurial energies of the American people; energies that can lift individuals out of poverty as they push communities to higher levels of prosperity.

This amendment contains an important provision of the Renewal Alliance package I have been working toward since coming to the United States Senate. It also contains a number of other provisions that I believe represent the responsible way to raise the minimum wage: by ensuring that businesses do not find themselves saddled with costs that lead them to lay off minimum wage workers, exactly those proponents of a minimum wage hike are trying to assist.

This amendment addresses three major areas of concern to Americans striving to work their way into our vast middle class: work opportunity, investment, and health insurance.

First, as to work opportunity. In my view opportunity is the key to progress. I have sought to increase this opportunity through the Renewal Alliance, a bipartisan group of Senators seeking targeted tax benefits to spur economic growth in our nation's distressed urban and rural communities. This amendment contains key provisions of the Renewal Alliance program.

Most important is a provision to permanently extend the Work Opportunity Tax Credit. A credit of up to $2,400 for wages paid would provide businesses with extra funds for investment in growth and employee training. As a result, many Americans currently without bright futures will receive experience and training—the keys, in my view, to economic success.

Also critical to providing increased work opportunity are provisions in this amendment that encourage greater investment, and greater investment in small businesses in particular.

Mr. President, 99 percent of American employers are small businesses. Small businesses employ more than half our private work force, and they have consistently been the engine of our economic growth, whether in traditional industries or on the cutting edge of high technology.

Further, Mr. President, it is often small business owners who are willing to take a chance on someone in need—someone without experience, someone who has fallen on hard times.

If they are to employ more Americans who are in need, Mr. President, our small businesses must have access to more investment capital. This amendment would addresses our continuing shortage of investment, thereby spurring small business growth and hiring.

First, it would increase the maximum dollar amount small businesses can deduct for investment in business property. By increasing this amount to $30,000, beginning in 2001, the amendment would provide an additional $3,850 in annual tax savings for small businesses investing in new equipment.

Second, the amendment would provide more than 50 provisions encouraging investment in pensions. They would expand coverage, enhance fairness for women, increase portability, strengthen security and reduce regulatory burdens.

Finally, this amendment would addresses inequities in our tax structure that keep an estimated 44 million Americans from affording health insurance. 44 million is a distressing number. Equally distressing is the fact that fully 81 percent of uninsured Americans have jobs.

Too many Americans, including the self-employed, the unemployed, and employees of small companies that do not provide health insurance, can't afford coverage. Why not? Because, under our tax code, they must pay taxes first, and buy insurance with whatever they have left over—if anything.

Paying with after-tax dollars can make health insurance twice as expensive—too expensive for millions of working Americans.

We must address this inequity in our tax code. This amendment would do just that.

First, it would enable self-employed Americans to deduct the full cost of health insurance. Finally, entrepreneurs would get the same tax benefits as larger companies.

Second, this amendment would provide an above-the-line deduction for individuals whose employers do not subsidize more than 50% of the cost of health coverage. Thus all workers, not just those who itemize, would be better able to afford health care costs.

Taken together, these provisions would provide significantly greater economic opportunity for all Americans. They would safeguard our economic growth and spur further investment in American workers.

I urge my colleagues to give this important amendment their full support.

Mr. MOYNIHAN. Mr. President, I wish to point out a concern I have with a seemingly innocuous, seemingly beneficial, provision contained in the Domenici amendment to S. 625, the ''Bankruptcy Reform Act of 1999''—Section 68. Modification of Exclusion for Employer Provided Transit Passes. The goal of the provision—to expand the use of the Federal transit benefit, a ''qualified transportation fringe'' in the vernacular—is admirable, but I fear that the way in which the provision pursues that goal may, in fact, unintentionally undermine the transit benefit.

The employer-provided Federal transit benefit has evolved since its creation within the Deficit Reduction Act of 1984 as a $15 per month ''de minimis'' benefit. After fourteen years of gradual change, last year's Transportation Equity Act for the 21st Century (TEA–21) codified the benefit as a ''pre-tax'' benefit of up to $65 per month. The cap will increase to $100 in 2002. The ''pre-tax'' aspect was a major reform because it provided an economic incentive—payroll tax savings—for employers to offer the program. Companies would save money by offering a benefit of great utility to their workers while simultaneously removing automobiles from our choked and congested urban streets and highways. It is effective public policy. (As an aside, I should note that a similar pre-tax benefit of $175 per month exists for parking, and so despite all we know about air pollution and the intractable problems of automobile congestion, Congress continues to encourage people to drive. Discouraging perhaps, but we're closing the gap. If one doesn't have thirty years to devote to social policy, one should not get involved!)

Quite consciously, and conscientiously, Congress established a bias in the statute toward the use of vouchers—which employers can distribute to employees—over bona fide cash reimbursement arrangements. We permitted employers to use cash reimbursement arrangements only when a voucher program was not readily available. We reasoned that because the vouchers could only be used for transit, we would eliminate the need for employees to prove that they were using the tax benefit for the intended purpose. Furthermore, by stipulating that voucher programs are the clear preference of Congress, we are compelling transit authorities to offer better services—monthly farecards, unlimited ride passes, smartcards, et al.—to the multitudes of working Americans who must presently endure all manner of frustrations and indignities during their daily work commute.

While the new law has only been in effect for little more than a year, the program is catching on in our large metropolitan areas and should continue to expand. We have been alerted, however, to a legitimate concern of large multistate employers. Several of these companies have noted that establishing voucher programs can be arduous and unwieldy when the companies must craft separate programs in various jurisdictions with different transportation authorities. These difficulties, coupled with an expertise in administering cash reimbursement programs, have convinced the companies that bona fide cash reimbursement programs are more practical. Fair enough.

We should, therefore, make it easier for such companies to offer the benefit through cash reimbursement arrangements. While I am committed to that end, I have serious reservations about the repeal of the voucher preference contained in the Domenici amendment.

My main objection is that the U.S. Treasury is currently developing substantiation regulations for the administration of this benefit through cash reimbursement arrangements. These

regulations will provide companies with a clear understanding of their obligations in the verification of their employees' transit usage, an understanding which does not exist today. Until these regulations are promulgated, voucher programs offer the only true mechanism of verification, as vouchers, unlike cash, are useless unless enjoyed for their intended purpose. The Congress should not take an action that might rapidly increase the use of a tax benefit without the existence of accompanying safeguards to ensue the program's integrity.

I will work with my colleagues on the Finance Committee, with my revered Chairman, and any Senator interested in this issue, to improve the ease with which companies can offer this important benefit to their employees. It is, after all, in our national interest. But I must strongly oppose efforts to repeal the voucher preference until the Treasury establishes a regulatory framework for cash reimbursement. We have been told to expect the regulations by mid-January. We anxiously await their arrival.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, the Republican bill does the following: It raises the minimum wage $1 in three installments instead of two. It gives great opportunity to small businesspeople and others who have been denied relief under the Tax Code of this country.

Let me explain so everybody will understand the basic ones we try to help in this bill. One, we help workers pay for health care. For the first time in history, workers in the United States, many who work for small businesses, can buy their own health insurance and deduct every penny of it. Heretofore, they could not do that. We have a 100 percent self-employed health insurance deduction. That should have been the case 10 years ago. We finally have it in this bill.

We made permanent the work opportunity tax credit, which is to help employers, mostly small businesses, hire those who cannot get jobs, and they get a credit for it. We made that permanent. That is good for America since we have reduced the number of welfare recipients in America by 48 percent; and we need to make permanent the incentive to hire them.

We have reduced the Federal unemployment surtax. As I said, we have made permanent that work opportunity tax credit I just told you about.

In addition, there is no question that the Democrats decided to raise taxes to pay for their wage increases. So they raise taxes almost $13 billion in the first 5 years, which is not necessary with the kind of surpluses that we have. We have used merely 12.5 percent of the tax cuts we had proposed 5 months ago. So 12.5 percent of them are in this bill.

This is the right thing to do.

Let me close by telling you, 55 percent of the minimum wage earners in America are young people; two-thirds are part-time workers; and 8 percent are women who are heads of households working full time.

I yield the floor.

Mr. KENNEDY. I yield myself the remaining 30 seconds.

Mr. President, first, this is a watered-down increase in the minimum wage that does not deserve to pass. It is a sham.

Second, this legislation assaults the whole formula on overtime. It threatens overtime for 73 million Americans.

And third, it provides $75 billion in tax breaks for wealthy individuals that is not paid for.

It does not deserve the support of the Senate. I hope it will be defeated.

The PRESIDING OFFICER. All time has expired. The question is on the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2547. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS) is absent because of a death in the family.

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—54

Abraham	Enzi	Mack
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Murkowski
Bennett	Gorton	Nickles
Bond	Gramm	Roberts
Brownback	Grams	Roth
Bunning	Grassley	Santorum
Burns	Gregg	Sessions
Campbell	Hagel	Shelby
Chafee, L.	Hatch	Smith (NH)
Cleland	Helms	Smith (OR)
Cochran	Hutchinson	Snowe
Collins	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Jeffords	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner

NAYS—44

Akaka	Feingold	Lincoln
Baucus	Feinstein	Mikulski
Bayh	Graham	Moynihan
Biden	Harkin	Murray
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Breaux	Kennedy	Robb
Bryan	Kerrey	Rockefeller
Byrd	Kerry	Sarbanes
Conrad	Kohl	Schumer
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Voinovich
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden
Edwards	Lieberman	

NOT VOTING—2

Hollings	McCain

The amendment (No. 2547) was agreed to.

Mr. NICKLES. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Mr. ENZI assumed the Chair.)

Mr. LEAHY. Mr. President, to bring Senators up to date on where we are, the distinguished Senator from New Jersey, Mr. TORRICELLI, and I have been working with the distinguished Senators from Iowa and Utah, Messrs. GRASSLEY and HATCH, to clear as many amendments as we can agree to. Senators GRASSLEY, HATCH, TORRICELLI, and I have been able to get a number of these agreed to. We have more than 10 amendments we are ready to accept to show we are making progress on this bill.

For the benefit of Senators, I will briefly describe these amendments we are prepared to accept. We are prepared to accept the Feingold amendment No. 2745, an amendment to improve the bill by prohibiting retroactive assessments of disposable income. It ensures that farmers forced into bankruptcy can continue to carry on their farming operations without retroactive assessments against their disposable income.

We are prepared to accept Robb amendment No. 1723 which improves the bill by clarifying the trustees shall return any payments not previously paid and not yet due and owing to lessors and purchase money secured creditors if a plan is not confirmed.

We are prepared to accept Grassley amendment No. 1731, a bipartisan amendment improving the bill by giving bankruptcy judges the discretion to waive the $175 filing fee for chapter 7 cases for debtors whose annual income is less than 125 percent of the poverty level. Bankruptcy is the only civil proceeding where in forma pauperis filing status is not permitted. This amendment corrects that anomaly. The Grassley amendment is cosponsored by Senators TORRICELLI, SPECTER, FEINGOLD, and BIDEN.

Feingold amendment No. 2743 improves the bill by striking the requirement that debtor's attorneys must pay a trustee's attorney fees if the debtor is not substantially justified in filing for chapter 7. The current requirement that debtor's attorney must pay a trustee attorney's fee often causes a chilling effect of discouraging eligible debtors from filing chapter 7 for fear of paying future fees. Senator SPECTER is a sponsor of this amendment.

We have Hatch amendment No. 1714 improving the bill by adding procedures for the prosecution of materially fraudulent claims in bankruptcy schedules.

Hatch amendment No. 1715 improves the bill by dismissing bankruptcy cases if the debtor commits a crime of violence or a drug trafficking crime.

The Kerry amendment No. 1725 modifies the deadlines for small business bankruptcy filings. Small businesses need the reasonable time limits of this amendment to reorganize their business.

We have the Collins amendment No. 1726, a bipartisan amendment improving the bill by providing bankruptcy rules for family fishermen. The amendment is cosponsored by Senators KERRY of Massachusetts, MURRAY, STEVENS, and KENNEDY.

Johnson amendment No. 2654 improves the bill by paying chapter 7 trustees if a case is dismissed or diverted under the bill's means test.

The DeWine amendment No. 1727 improves the bill by clarifying that a debt from a qualified education loan under the Internal Revenue Service Code is nondischargable.

Grassley amendment No. 2514 improves the bill by clarifying a special tax assessment on real property secured debts under bankruptcy laws. Many municipal governments, particularly in California, depend on these real estate taxes or assessments for revenues. The distinguished Senator from California, Mrs. FEINSTEIN, is a cosponsor of this amendment.

Senators had been coming to the floor Friday and Monday to offer amendments. Even though we had only half a day of debate yesterday, Senators from both sides of the aisle offered amendments to improve the bill.

So I urge Senators to continue to do that. We could accept a vote or otherwise dispose of the Democratic and Republican amendments. I have discussed this with the distinguished Senator from Iowa. Both of us would like, if at all possible, to whittle down the number and be able to tell our colleagues at what point we are apt to finish the bill. We have been working. I don't think we have even had quorum calls.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. GRASSLEY. Mr. President, first of all, I thank the Senator from Vermont for his encouragement of all Members that although we have had so many amendments filed, it would be determined that every amendment either be offered or else dropped from the list. I hope later on this afternoon we can finish that process.

Mr. LEAHY. I thank my colleague.

AMENDMENTS NOS. 2745, 1723, 1731, 2743, 1714, 1715, 1725, 1726, 2654, 1727, 2514 EN BLOC

Mr. GRASSLEY. With respect to the individual amendments that the Senator from Vermont just gave details of, I ask unanimous consent the amendments listed be considered en bloc, agreed to en bloc, and the motion to reconsider be laid on the table.

They are amendments Nos. 2745, 1723, 1731, 2743, 1714, 1715, 1725, 1726, 2654, 1727, 2514.

Mr. LEAHY. We have no objection.

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

The amendments (Nos. 2745, 1723, 1731, 2743, 1714, 1715, 1725, 1726, 2654, 1727, 2514) were considered and agreed to en bloc, as follows:

AMENDMENT NO. 2745

(Purpose: To prohibit the retroactive assessment of disposal income)

At the end of title X, insert the following:

SEC. ___. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) IN GENERAL.—Section 1225(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) If the plan provides for specific amounts of property to be distributed on account of allowed unsecured claims as required by paragraph (1)(B), those amounts equal or exceed the debtor's projected disposable income for that period, and the plan meets the requirements for confirmation other than those of this subsection, the plan shall be confirmed.''.

(b) MODIFICATION.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

''(d)(1) A modification of the plan under this section may not increase the amount of payments that were due prior to the date of the order modifying the plan.

''(2) A modification of the plan under this section to increase payments based on an increase in the debtor's disposable income may not require payments to unsecured creditors in any particular month greater than the debtor's disposable income for that month unless the debtor proposes such a modification.

''(3) A modification of the plan in the last year of the plan shall not require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed unless the debtor proposes such a modification.''.

AMENDMENT NO. 1723

(Purpose: To clarify the amount of payments to be returned to a debtor if a plan is not confirmed, and for other purposes)

On page 106, line 16, insert ''and not yet due and owing'' after ''previously paid''.

AMENDMENT NO. 1731

(Purpose: To provide for a waiver of filing fees in certain bankruptcy cases, and for other purposes)

On page 145, between lines 15 and 16, insert the following:

SEC. 420. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking ''Notwithstanding section 1915 of this title, the parties'' and inserting ''Subject to subsection (f), the parties''; and

(2) by adding at the end the following:

''(f)(1) The Judicial Conference of the United States shall prescribe procedures for waiving fees under this subsection.

''(2) Under the procedures described in paragraph (1), the district court or the bankruptcy court may waive a filing fee described in paragraph (3) for a case commenced under chapter 7 of title 11 if the court determines that an individual debtor whose income is less than 125 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved is unable to pay that fee in installments.

''(3) A filing fee referred to in paragraph (2) is—

''(A) a filing fee under subsection (a)(1); or

''(B) any other fee prescribed by the Judicial Conference of the United States under subsection (b) that is payable to the clerk of the district court or the clerk of the bankruptcy court upon the commencement of a case under chapter 7 of title 11.

''(4) In addition to waiving a fee under paragraph (2), the district court or the bankruptcy court may waive any other fee prescribed under subsection (b) or (c) if the court determines that the individual with an income at a level described in paragraph (2) is unable to pay that fee in installments.''.

AMENDMENT NO. 2743

(Purpose: To modify the standard for the award of attorneys' fees)

On page 12, strike line 22 and insert ''frivolous.''.

AMENDMENT NO. 1714

(Purpose: To provide for improved enforcement of criminal bankruptcy filing provisions, and for other purposes)

On page 28, line 7, after ''**debt**'', insert ''**and materially fraudulent statements in bankruptcy schedules**''.

On page 28, line 12, after the period, insert ''In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.''.

On page 28, line 25, strike the quotation marks and the second period.

On page 28, after line 25, insert the following:

''(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case which may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.''.

On page 29, strike the item between lines 3 and 4 and insert the following:

''158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.''.

AMENDMENT NO. 1715

(Purpose: To amend section 707, of title 11, United States Code, to provide for the dismissal of certain cases filed under chapter 7 of that title by a debtor who has been convicted of a crime of violence or a drug trafficking crime)

On page 14, between lines 14 and 15, insert the following:

(c) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, as amended by subsection (a) of this section, is amended by adding at the end the following:

''(c)(1) In this subsection—

''(A) the term 'crime of violence' has the meaning given that term in section 16 of title 18; and

''(B) the term 'drug trafficking crime' has the meaning given that term in section 924(c)(2) of title 18.

''(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, or at the request of a party in interest, shall dismiss a voluntary case filed by an individual debtor under this chapter if that individual was convicted of that crime.

''(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.''.

On page 14, line 15, strike ''(c)'' and insert ''(d)''.

AMENDMENT NO. 1725

(Purpose: To amend plan filing and confirmation deadlines)

On page 155, line 16, strike ''90'' and insert ''180''.

On page 155, strike through lines 18 and 19.

On page 155, line 20, strike ''(B)'' and insert ''(A)''.

On page 155, line 22, strike ''(C)'' and insert ''(B)''.

On page 155, line 24, strike ''90'' and insert ''300''.

Beginning on page 156, line 22, strike through page 157, line 8.

Redesignate sections 430 through 435 as sections 429 through 434, respectively.

On page 159, lines 13 and 14, strike '', as amended by section 429 of this Act,''.

On page 250, line 17, strike ''432(2)'' and insert ''431(2)''.

AMENDMENT NO. 1726

(Purpose: To provide for family fishermen)

At the appropriate place insert the following:

SEC. ___. FAMILY FISHERMEN.

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

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

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

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

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

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

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

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

''(19A) 'family fisherman' means—

''(A) an individual or individual and spouse engaged in a commercial fishing operation (including aquaculture for purposes of chapter 12)—

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

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

''(B) a corporation or partnership—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) by adding at the end the following:

''§ 1232. Additional provisions relating to family fishermen

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

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

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

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

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

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

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

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

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

''(B) personal injury; or

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

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

(d) CLERICAL AMENDMENTS.—

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

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

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

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

(e) Nothing in this title is intended to change, affect, or amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, et seq.).

AMENDMENT NO. 2654

(Purpose: To provide chapter 7 trustees with reasonable compensation for their work in managing the ability to pay test)

At the appropriate place, insert the following:

SEC. ___. COMPENSATING TRUSTEES.

Title 11, United States Code, is amended—

(1) in section 104(b)(1) in the matter preceding subparagraph (A) by—

(A) striking ''and 523(a)(2)(C)''; and

(B) inserting ''523(a)(2)(C), and 1326(b)(3)'' before ''immediately'';

(2) in section 326, by inserting at the end the following:

''(e) Notwithstanding any other provision of this section, if a trustee in a chapter 7 case commences a motion to dismiss or convert under section 707(b) and such motion is granted, the court shall allow reasonable compensation under section 330(a) of this title for the services and expenses of the trustee and the trustee's counsel in preparing and presenting such motion and any related appeals.''; and

(3) in section 1326(b)—

(A) in paragraph (1), by striking ''and'';

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

(C) by adding at the end the following:

''(3) if a chapter 7 trustee has been allowed compensation under section 326(e) in a case converted to this chapter or in a case dismissed under section 707(b) in which the debtor in this case was a debtor—

''(A) the amount of such unpaid compensation which shall be paid monthly by prorating such amount over the remaining duration of the plan, but a monthly payment shall not exceed the greater of—

''(i) $25; or

''(ii) the amount payable to unsecured nonpriority creditors as provided by the plan multiplied by 5 percent, and the result divided by the number of months in the plan; and

''(B) notwithstanding any other provision of this title—

''(i) such compensation is payable and may be collected by the trustee under this paragraph even if such amount has been discharged in a prior proceeding under this title; and

''(ii) such compensation is payable in a case under this chapter only to the extent permitted by this paragraph.''.

AMENDMENT NO. 1727

(Purpose: To provide for the nondischargeability of certain educational benefits and loans)

On page 53, insert between lines 18 and 19 the following:

SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

''(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

''(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

''(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

''(B) any other educational loan that is a qualified education loan, as that term is defined in section 221(e)(1) of the Internal Revenue Code of 1986, incurred by an individual debtor;''.

AMENDMENT NO. 2514

(Purpose: To amend Title 11 of the United States Code)

Insert at the appropriate place:

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the filing of the petition.

Mr. FEINGOLD. Mr. President, I thank the managers for offering and accepting the bipartisan amendment that would allow courts to waive the filing fee for chapter 7 filers who cannot afford to pay. This is similar to an amendment that Senator SPECTER and I successfully offered on the floor in the last Congress. I am certain we could have repeated that success on this bill, but I did not think it was necessary this year to have a rollcall vote since the House-passed bankruptcy bill includes a similar provision.

It is unbelievable to me that bankruptcy is the only Federal civil proceeding in which a poor person cannot file in forma pauperis. That means that in any other federal civil proceeding you can file a case without paying the filing fee if the court determines that you are unable to afford the fee, but in bankruptcy you either pay the filing fee or you are denied access to the system.

That doesn't make any sense. The bankruptcy system, is by definition designed to assist those who have fallen on hard times, but because there is no allowance for in forma pauperis filing, the system is unavailable to the poorest of the poor. This prohibition against debtors filing in forma pauperis is a clear obstacle to the poor gaining access to justice.

Currently the filing fee for consumer bankruptcy is $175, and it may well be increased in this bill. That's roughly the weekly take home pay of an employee working a 40-hour week at the minimum wage. It is unreasonable and unrealistic to expect the indigent—people who barely get by from week to week, the very people who truly need the protection afforded by the bankruptcy system the most—to save money to raise such a fee simply to enter the system.

Congress has already acknowledged that the bankruptcy system may need an in forma pauperis proceeding by enacting a three year pilot program in six judical districts across the country. The Federal Judicial Center recently submitted a comprehensive report to Congress analyzing this pilot program in which it found that:

A fee waiver application was filed in only 3.4 percent of all chapter 7 cases, and the large majority of these waivers were granted. Indeed, the U.S. Trustees Office filed objections to less than 1 percent of the applications. In other words, only those very few individuals who really needed the fee-waiver applied for it.

The fee-waiver program enhanced access to the bankruptcy system for indigent single women above and beyond any other group. We cannot strike another blow against single mothers and their children by denying them access to the bankruptcy system because they cannot even afford the filing fee.

The nature of the debt for those who filed for the fee-waiver differed from that of other debtors in that their debts related more to basic subsistence—education, health, utility services, and housing. Moreover, 63 percent of the housing-related debts of those who filed for the fee-waiver owed their debts to public housing authorities. Therefore, these indigent debtors were not filing bankruptcy to escape paying for their boats, or their fancy entertainment systems. They were filing bankruptcy merely to subsist.

Often times the bankruptcy system was the only thing that stood between these unfortunate people and homelessness.

There was only a minimal increase in the number of filings and there was no indication that debtors filed for chapter 7 rather than chapter 13 just to obtain the benefit of the fee-waiver program. Simply stated, the debtors did not abuse the system.

In sum, this amendment would build upon the strong foundation established in the pilot program and direct the Judicial Center to create a nation-wide in forma pauperis program for the bankruptcy system, thus, establishing some fairness in the bankruptcy filing process for the most financially strapped debtors.

We have made one modification in the amendment to make sure that in forma pauperis filing status is only available to truly indigent people, namely those with an annual income of below 125% of the poverty level. That is the same income qualification required for people to receive free legal assistance from the Legal Service Corporation. Obviously, we don't intend for the bankruptcy filing fee to be waived for people who aren't really poor. So I was happy to agree to this modification.

The expenditure of funds required by this amendment is clearly justified. We made the decision long ago in this country that our judicial system would be open to everyone—those who can pay, and those who cannot—and we decided that as a nation, we would absorb the cost of allowing those who could not pay to receive the same access as those who could. If you are poor, and you cannot afford the fee to file for divorce, we absorb the cost. If someone does you wrong and you cannot afford the filing fee to sue, we absorb the cost. Likewise, if you are in such financial difficulty that you must file for bankruptcy, and you cannot afford the filing fee, now, because of this amendment, we must also absorb the cost.

In this bill, where we are giving such advantages to the well-heeled landlords and credit companies, I am pleased that we will take this small step to ensure that the poorest of the poor are not shut out of this very important part of our system of justice. Again, I thank the managers for agreeing to this amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. DODD. Mr. President, if I can get the attention of the floor manager of this bill, I think what I am about to do is all right. I will call up three amendments and immediately ask for them to be laid aside, and then I will call up an amendment which I want to debate.

AMENDMENTS NOS. 2531, 2532, AND 2753

Mr. DODD. Mr. President, I call up amendments Nos. 2531, 2532, and 2753.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes amendments numbered 2531, 2532, and 2753.

The amendments are as follows:

AMENDMENT NO. 2531

(Purpose: To protect certain education savings)

On page 83, between lines 4 and 5, insert the following:

SEC. 2 . PROTECTION OF EDUCATION SAVINGS.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, as amended by section 903, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking ''or'' at the end;

(B) by redesignating paragraph (6) as paragraph (8); and

(C) by inserting after paragraph (5) the following:

''(6) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were placed in such account;

''(B) only to the extent that such funds—

''(i) are not pledged or promised to any entity in connection with any extension of credit; and

''(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

''(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later

than 365 days before such date, only so much of such funds as does not exceed $5,000;

''(7) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a son, daughter, stepson, step-daughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;

''(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

''(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000; or''; and

(2) by adding at the end the following:

''(f) In determining whether any of the relationships specified in paragraph (6)(A) or (7)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 105(d), 304(c)(1), 305(2), 315(b), and 316 of this Act, is amended by adding at the end the following:

''(k) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).''.

On page 7, line 15, strike ''(ii)'' and insert ''(ii)(I)''.

On page 7, between lines 21 and 22, insert the following:

''(II) The expenses referred to in subclause (I) shall include—

''(aa) taxes and mandatory withholdings from wages;

''(bb) health care;

''(cc) alimony, child, and spousal support payments;

''(dd) legal fees necessary for the debtor's case;

''(ee) child care and the care of elderly or disabled family members;

''(ff) reasonable insurance expenses and pension payments;

''(gg) religious and charitable contributions;

''(hh) educational expenses not to exceed $10,000 per household;

''(ii) union dues;

''(jj) other expenses necessary for the operation of a business of the debtor or for the debtor's employment;

''(kk) utility expenses and home maintenance expenses for a debtor that owns a home;

''(*ll*) ownership costs for a motor vehicle, determined in accordance with Internal Revenue Service transportation standards, reduced by any payments on debts secured by the motor vehicle or vehicle lease payments made by the debtor;

''(mm) expenses for children's toys and recreation for children of the debtor;

''(nn) tax credits for earned income determined under section 32 of the Internal Revenue Code of 1986; and

''(oo) miscellaneous and emergency expenses.

On page 83, between lines 4 and 5, insert the following:

SEC. 225. TREATMENT OF TAX REFUNDS AND DOMESTIC SUPPORT OBLIGATIONS.

(a) PROPERTY OF THE ESTATE.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (a)(5)(B) by inserting ''except as provided under subsection (b)(7),'' before ''as a result''; and

(2) in subsection (b)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by inserting after paragraph (5) the following:

''(6) any—

''(A) refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed under section 32 of such Code for such year; and

''(B) advance payment of an earned income tax credit under section 3507 of the Internal Revenue Code of 1986; or

''(7) the right of the debtor to receive alimony, support, or separate maintenance for the debtor or dependent of the debtor.''.

(b) PROTECTION OF EARNED INCOME TAX CREDIT AND SUPPORT PAYMENTS UNDER BANKRUPTCY REPAYMENT PLANS IN CHAPTER 12.—Section 1225(b)(2) of title 11, United States Code, as amended by section 218 of this Act, is amended—

(1) by inserting ''(A)'' before ''For purposes'';

(2) by striking ''(A) for the maintenance'' and inserting ''(i) for the maintenance'';

(3) by striking ''(B) if the debtor'' and inserting ''(ii) if the debtor''; and

(4) by adding at the end the following:

''(B) In determining disposable income the court shall not consider amounts the debtor receives or is entitled to receive from—

''(i) any refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed by section 32 of the Internal Revenue Code of 1986 for such year;

''(ii) any advance payment for an earned income tax credit described in clause (i); or

''(iii) child support, foster care, or disability payment for the care of a dependent child in accordance with applicable nonbankruptcy law.''.

(c) PROTECTION OF EARNED INCOME TAX CREDIT AND SUPPORT PAYMENTS UNDER BANKRUPTCY REPAYMENT PLANS IN CHAPTER 13.—Section 1325(b)(2) of title 11, United States Code, as amended by section 218 of this Act, is amended—

(1) by inserting ''(A)'' before ''For purposes'';

(2) by striking ''(A) for the maintenance'' and inserting ''(i) for the maintenance'';

(3) by striking ''(B) if the debtor'' and inserting ''(ii) if the debtor''; and

(4) by adding at the end the following:

''(B) In determining disposable income the court shall not consider amounts the debtor receives or is entitled to receive from—

''(i) any refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed by section 32 of the Internal Revenue Code of 1986 for such year;

''(ii) any advance payment for an earned income tax credit described in clause (i); or

''(iii) child support, foster care, or disability payment for the care of a dependent child in accordance with applicable nonbankruptcy law.''.

(d) EXEMPTIONS.—Section 522(d) of title 11, United States Code, as amended by section 224 of this Act, is amended in paragraph (10)—

(1) in subparagraph (C), by adding ''or'' after the semicolon;

(2) by striking subparagraph (D); and

(3) by striking ''(E)'' and inserting ''(D)''.

On page 92, line 5, strike ''personal property'' and insert ''an item of personal property purchased for more than $3,000''.

On page 93, line 19, strike ''property'' and insert ''an item of personal property purchased for more than $3,000''.

On page 97, line 10, strike ''if'' and insert ''to the extent that''.

On page 97, line 10, after ''incurred'' insert ''to purchase that thing of value''.

On page 98, line 1, strike ''(27A)'' and insert (27B)''.

On page 107, line 9, strike ''and aggregating more than $250'' and insert ''for $400 or more per item or service''.

On page 107, line 11, strike ''90'' and insert ''70''.

On page 107, line 13, after ''dischargeable'' insert the following: ''if the creditor proves by a preponderance of the evidence at a hearing that the goods or services were not reasonably necessary for the maintenance or support of the debtor''.

On page 107, line 15, strike ''$750'' and insert ''$1,075''.

On page 107, line 17, strike ''70'' and insert ''60''.

Beginning on page 109, strike line 21 and all that follows through page 111, line 15, and insert the following:

SEC. 314. HOUSEHOLD GOOD DEFINED.

Section 101 of title 11, United States Code, as amended by section 106(c) of this Act, is amended by inserting before paragraph (27B) the following:

''(27A) 'household goods'—

''(A) includes tangible personal property normally found in or around a residence; and

''(B) does not include motor vehicles used for transportation purposes;''.

On page 112, line 6, strike ''(except that,'' and all that follows through ''debts)'' on line 13.

On page 113, between lines 3 and 4, insert the following:

(c) EXCEPTIONS TO DISCHARGE.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (c), by inserting ''(14A),'' after ''(6),'' each place it appears; and

(2) in subsection (d), by striking ''(a)(2)'' and inserting ''(a) (2) or (14A)''.

On page 263, line 8, insert ''as amended by section 322 of this Act,'' after ''United States Code,''.

On page 263, line 11, strike ''(4)'' and insert ''(5)''.

On page 263, line 12, strike ''(5)'' and insert ''(6)''.

On page 263, line 13, strike ''(6)'' and insert ''(7)''.

On page 263, line 14, strike ''(4)'' and insert ''(5)''.

On page 263, line 16, strike ''(5)'' and insert ''(6)''.

AMENDMENT NO. 2753

(Purpose: To amend the Truth in Lending Act to provide for enhanced information regarding credit card balance payment terms and conditions, and to provide for enhanced reporting of credit card solicitations to the Board of Governors of the Federal Reserve System and to Congress, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. CONSUMER CREDIT.

(a) ENHANCED DISCLOSURES UNDER AN OPEN END CONSUMER CREDIT PLAN.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(11)(A) Repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

''(i) the required minimum monthly payment on that balance, represented as both a dollar figure and as a percentage of that balance;

''(ii) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that balance, if the consumer pays only the required minimum monthly payments and if no further advances are made;

''(iii) the total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no further advances are made; and

''(iv) the monthly payment amount that would be required for the consumer to eliminate the outstanding balance in 36 months if no further advances are made.

''(B)(i) Subject to clause (ii), in making the disclosures under subparagraph (A) the creditor shall apply the interest rate in effect on the date on which the disclosure is made until the date on which the balance would be paid in full.

''(ii) If the interest rate in effect on the date on which the disclosure is made is a temporary rate that will change under a contractual provision applying an index or formula for subsequent interest rate adjustment, the creditor shall apply the interest rate in effect on the date on which the disclosure is made for as long as that interest rate will apply under that contractual provision, and then apply an interest rate based on the index or formula in effect on the applicable billing date.''.

(b) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: ''In connection with the disclosures referred to in subsections (a) and (b) of section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125, 127(a), or paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b), or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a), or paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b).''.

Mr. DODD. Mr. President, I ask unanimous consent that these three amendments be laid aside.

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

AMENDMENT NO. 2754

(Purpose: To amend the Truth in Lending Act with respect to extensions of credit to consumers under the age of 21)

Mr. DODD. Mr. President, I call up amendment No. 2754 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself and Mr. KENNEDY, proposes an amendment numbered 2754.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.

(a) IN GENERAL.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

''(5) APPLICATIONS FROM UNDERAGE CONSUMERS.—

''(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end credit plan established on behalf of, a consumer who has not attained the age of 21 unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

''(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by an individual who has not attained the age of 21 as of the date of submission of the application shall require—

''(i) the signature of the parent, legal guardian, or spouse of the consumer, or any other individual having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21; or

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

(b) REGULATORY AUTHORITY.—The Board of Governors of the Federal Reserve System may issue such rules or publish such model forms as it considers necessary to carry out section 127(c)(5) of the Truth in Lending Act, as amended by this section.

Mr. DODD. Mr. President, I say to my good friend from Iowa, I know he is concerned with the number of amendments and time. We have debated this amendment in the past. It will not be a new debate for our colleagues. I am more than happy to enter into an agreement, if he wants, to move the process along. I have three other amendments I have offered and laid aside which also can be dealt with quickly. I am more than prepared to enter into a time agreement when the manager wants to discuss that with me. I will be brief and explain what this amendment does and why it is an important one. I hope our colleagues will be willing to support it.

This amendment is very straightforward and just plain common sense and something most Americans have become familiar with already.

The amendment requires that when a credit card company issues a credit card to persons under the age of 21, the issuers of those credit cards obtain an application from that individual that does one of two things: One, either they have the signature of a parent, guardian, or other qualified individual willing to take financial responsibility for any debts that may be incurred; or, two, that the applicant provides information indicating the individual has independent means of repaying any credit card debt. One of those two things: Either have a guardian or some qualified person cosign to say they will assume the responsibility, or demonstrate the borrower has independent means of paying back their debts.

Why do I suggest this amendment is important and one we ought to do? It is becoming an alarming problem in the country. One of the most troubling developments in the hotly contested battle between the credit card issuers to sign up new customers has been the aggressive way in which these companies have targeted people under the age of 21, particularly college students.

Solicitations to this age group have become more intense for a variety of reasons. First of all, it is one of the few market segments in which there are always some new faces to go after. That certainly is understandable. Second, it is an age group in which brand loyalty can be established early on. Again, I understand that. In the words of one major credit card issuer, ''We are in the relationship business. We want to build relationships early on.''

Recent press reports have reported that people hold on to their first credit cards for up to 15 years. That makes sense to me. I do not argue with that. That is good business judgment. It is a new crowd coming along, and a company knows they can develop loyalties early on, and they want to establish that relationship as early as they can for those individuals.

I do not fault the credit card companies for those arguments or those ideas from a business perspective. What does worry me is that this solicitation and signing people up without having some information which indicates these credit cards are going to be paid for is creating a very serious problem, including significant dropouts from colleges because of the huge debts these individuals are accumulating.

In fact, people under the age of 21 are such a hot target for credit card marketers that the upcoming Card Marketing Conference 98 is calling one of its key sessions ''Targeting teens: You never forget your first card.''

Providing fair access to credit is something for which I have fought throughout my tenure in the Senate, and credit cards play a valuable role in pursuing the American dream. Some credit card issuers, however, have, in

my view, gone too far in their aggressive solicitations. They irresponsibly target the most vulnerable in our society and extend them large amounts of credit with absolutely no regard to whether or not there is a reasonable expectation of repayment.

On my first chart, I bring to my colleagues' attention a recent story reported in the Rochester Democrat and Chronicle in the State of New York. The article relates to the story of a 3-year-old child who recently received a platinum credit card with a credit card limit of $5,000. The credit card issuers are also enticing college students.

In the Rochester News, a 3-year-old Rochester toddler was issued a platinum credit card after the mother jokingly returned an application sent to the child. The child's mother told the bank that the child's occupation was ''preschooler'' and left the income portion of the application a total blank. A few weeks later, the tot received a $5,000 credit card limit.

This is how insane the process has become—filling out the application, listing your application as a preschooler, and showing no source of income, and you get $5,000 worth of credit.

We know in this day and age of high technology that these companies certainly have the capacity of distinguishing—I hope—between a preschooler with no source of income and providing them with $5,000 worth of credit.

Credit card issuers are also enticing colleges and universities to promote their products. Professor Robert Manning of Georgetown University told my staff recently that some colleges receive tens of thousands of dollars per year for exclusive marketing agreements. Other colleges receive as much as 1 percent of all student charges from the credit card issuer in return for marketing or affinity agreements. Even those colleges that do not enter such agreements are making money.

Robert Bugai, president of the College Marketing Intelligence, told the American Banker recently that colleges charge up to $400 per day for each credit card company that sets up a table on their campuses. That can run into tens of thousands of dollars by the end of just one semester.

Last February, I went to the main campus of the University of Connecticut in my home State to meet with student leaders about this issue. Quite honestly, I was surprised at the amount of solicitations going on in the student union. Frankly, I also was surprised at the degree to which the students themselves were concerned about the constant barrage of offers they were receiving for credit cards.

The offers seemed very attractive. One student who was an intern in my office this summer received four solicitations in 2 weeks from credit card companies. One promised ''eight cheap flights while you still have 18 weeks of vacation.'' Another promised a platinum card with what appeared to be a low-interest rate until you read the fine print that it applied only to balance transfers, not to the account overall. Only one of the four, Discover card, offered a brochure about credit terms—and I commend them for it—but, in doing so, also offered a spring break sweepstakes to 18-year-olds.

In fact, the Chicago Tribune recently reported the average college freshman receives 50 solicitations during the first few months at college. The Tribune further reported college students get green-lighted—a green light, no yellow light, a green light—for a line of credit that can reach more than $10,000 just on the strength of a signature and a student ID; $10,000 worth of credit at the age of 18 with just your student ID and a signature.

Who do you think is going to pay those bills? The parents do. They get socked with it in the end. We have to have some restraint, some controls on this. We have a huge problem with the amount of debt that is being accumulated by children or being passed on to their parents without any requirements at all that they meet some basic minimum standards, either independent sources of income or a cosignature by someone who can demonstrate the ability to pay.

It is a serious public policy question about whether people in this age bracket can be presumed—and that is what they are doing—presumed to be able to make the sensible financial choices that are being forced upon them from this barrage of marketing.

While it is very difficult to get reliable information from the credit card issuers about their marketing practices to people under the age of 21, the statistics that are available are deeply troubling. Let me share some of them with you.

Let me put up chart No. 2, if I may. ''Collegiate credit cards increasing.'' This article appeared just a few days ago in the Washington Post here in the Nation's Capital. Let me share what the Post talked about. I quote them:

> Alarmed by the trend, hundreds of colleges in recent years have forbidden credit card companies to solicit on their campuses, and Virginia lawmakers are thinking of imposing such a ban at all the State's colleges. Nine other States are considering similar measures.

The Post goes on to report that:

> An estimated 430 colleges have banned the marketing of credit cards on their campuses.

The statistics on college credit card debt are truly frightening.

Nellie Mae, a major student loan provider in the New England States, conducted a recent survey of students who had applied for student loans. It termed the results ''alarming.'' The survey found that 27 percent of their undergraduate student applicants had four or more credit cards. It found that 14 percent had credit card balances between $3,000 and $7,000, while another 10 percent had balances in excess of $10,000.

Let me repeat those statistics because they are truly alarming. Twenty-seven percent of college students already had four credit cards; 14 percent had credit card balances between $3,000 and $7,000; and 10 percent had credit card balances that were greater than $7,000. That is 24 percent; that is one out of every four who have debt somewhere between $3,000 and above $7,000—one out of every four college students with that kind of debt while they are trying to pay off student loans and other matters. This is incredible in terms of the amount of obligations, while still virtually children in many cases.

This figure of 24 percent with credit card balances in excess of $3,000 is more than double the number from last year when I stood on this floor and offered a similar amendment. The trend lines are alarming.

My hope with this amendment, which does not ban at all the solicitation among college students—if colleges want to allow them to go and solicit, they can—but the amendment merely says two things: Either have a guardian or a qualified person cosign, or show you have the independent means of paying the credit card debt you incur.

That is something you would think the credit card companies would want to do themselves. Why do they not want this information? Why are they willing to extend up to $10,000 worth of debt merely on a student signature and an ID? It seems to me that is the height of irresponsibility. Then they come around and complain that there is too much debt in the country and they want to tighten up the bankruptcy laws.

Why not tighten up your own process? Why not ask for some basic information of these young people before watching them build up the kind of debt they may spend years trying to pay back? It seems to me that if they are unwilling to impose some restraints on who can incur this kind of debt, we have an obligation to set some minimum standards.

Again, it does not ban them from going out to solicit young people to become credit card holders. If the young person can have their parents or a guardian cosign, or if they can demonstrate independent means of payment, no problem, they get their credit card. But just on a student ID, and just on their signature, I think this body ought to be on record as saying that is what is creating some of the real debt problems in the country. We ought to put a stop to it.

I mentioned the numbers. Moreover, while there is still evidence that student debt is skyrocketing, some surveys by credit card issuers themselves show that this same group of consumers is woefully uninformed about basic credit card terms and issues.

A 1993 American Express/Consumer Federation of America study—done only about 5 or 6 years ago—found that

only 22 percent of the more than 2,000 college students surveyed knew that the annual percentage rate is the best indicator of the true cost of a loan. Only 30 percent of those surveyed knew that each bank sets the interest rate on their credit cards, so it is possible to shop around for the best rate. Only 30 percent knew that the interest rate was charged on new purchases if you carried a balance over from the previous month.

Some college administrators, bucking the trend to use credit card issuers as a source of income, have become so concerned that they have banned credit card companies from their campuses, as I mentioned, and even have gone so far as to ban credit card advertisements from the campus bookstores.

Roger Witherspoon, the vice president of student development at John Jay College of Criminal Justice in New York, banned credit card solicitors, saying indebtedness was causing students to drop out. I quote him:

> Middle class parents can bail out their kids when this happens, but lower income parents can't.

In fact, I argue with the statement. I do not think middle-income parents can either. Only the most affluent parents would be able to bail out their children from the kind of debts many of them are incurring.

But he goes on to say:

> Kids only find out later how much it messes up their lives [when this debt occurs].

If I may, this is chart No. 3, which is from the Consumer Federation of America. This came out last June. The Consumer Federation of America says:

> The average college student who does not pay off his or her balance every month now has an average debt of over $2,000.

The average college student who does not pay off their balance every month has a credit card debt of over $2,000.

One-fifth—

One out of every five—

of these students have debts of more than $10,000. A number of colleges are now citing credit card debt as the most significant cause of college disenrollment.

Here we stand, day after day, week after week, talking about how important it is to get young people into higher education and to keep them there. This ought to be a matter of bipartisan concern.

I know the credit card companies are working overtime on this. But if one of the major causes of disenrollment in higher education is credit card debt—where one out of every five students in this country has debt in excess of $10,000, and the average student who does not pay their monthly balance has a $2,000 debt—then something is drastically wrong that cries out for some solution.

Again, I think banning credit card companies from college campuses, that ought not to be our decision; leave that up to the college campuses. Not allowing them to put their advertisements in bookstores, that ought to be the college's decision, not the Congress'.

But I do not think it is too much to say that we ought to require, as part of a bankruptcy bill, when we are trying to reduce the amount of bankruptcy filings in this country, that you either have to have someone who will cosign with you, if you are under the age of 18, or that you have an independent demonstration of the ability to pay.

I see my good friend from Utah has arrived. We now know that one of the most significant reasons of disenrollment in colleges is credit card debt. My colleague from Utah, who cares so much about higher education, ought to be deeply alarmed. The trend lines are dreadful. It is just dreadful what is occurring. Unless we do something to try to put some restraints on this, we are going to have this problem continue to mount.

As I said earlier, this amendment does one of two things: If you are under 21, have a guardian, a parent, a qualified person cosign, or demonstrate you can pay, and then you get your credit card. But to say you get a credit card with a student ID and your signature alone, and to be able to mount up this kind of debt, crippling these people from ever being able to get out from underneath their obligations, I think is outrageous.

The amendment I am proposing does not take any draconian action against the credit card industry. I agree with those who argue that there are many millions of people under the age of 21, who hold full-time jobs, who are as deserving of credit cards as anyone over the age of 21. I also agree that students should continue to have access to credit. They should not try to prohibit the marketing for making credit cards available to these people.

I also recognize that the period of time from 18 to 21 is an age of transition from adolescence to adulthood. As we do in so many other places in the Federal law, some extra care is needed to make sure that mistakes made from youthful inexperience do not haunt these people for the rest of their lives. All my amendment does is require that a credit card issuer, prior to granting credit, obtain one of two things from the applicant under the age of 21: Either they get a signature from a parent, a guardian, a qualified individual, or obtain information that demonstrates that that person between the ages of 18 and 21 has the capability of paying it back.

This is a vulnerable period. This is an exciting time in their lives. For many, it is the first time they are away from home. They are living on their own, independent. All of a sudden, as we know, you get 50 credit card solicitations in the space of one semester; in the case of the intern in my office, offering college sweepstakes, springs breaks, all sorts of enticements. You sign up. Before you know it, you have incurred $2,000, $3,000, $4,000, $6,000 worth of debt. You are 18 or 19 years of age. Then they come after you to pay. They don't give you a break and say: We will wait until you get through college. We will wait until you are 25 or 30 to pay it back. They want their money right away. They want to get it, immediately, if they can.

What happens, as we now find out, is one of the reasons for disenrollment in college—for one out of five students, $10,000 worth of debt by the time they are 19 or 20 years of age. By the way, on $10,000, the way the annual rates go and so forth, that probably means something like $30,000 or $40,000 because they can't pay it off all at once. By the time they get out from underneath this rock, it could end up being a fortune for them as they start out their lives with dreams and aspirations and hopes.

Again, I don't object to the credit card companies soliciting, advertising, if that is what they want to do and want to have them on board. But why do you allow an 18-year-old to get this kind of a debt with a student ID and a signature? You don't let that happen with older people. You demand some sort of information about their ability to pay. Why do you say to an 18-year-old that you can be treated so differently than someone who is 25 or 30, where they need demonstrations of ability to pay? Why shouldn't we say that if you are going to solicit an 18-year-old, at least show that they can pay it back. They may not be able to, but at least require that or have a guardian or an adult sign on.

Federal law already says people under the age of 21 shouldn't drink alcohol. We made that statement. I know my colleague from Utah was a strong supporter of that. We don't allow you to drink anymore on college campuses unless you are 21 or older because we were worried about them. We were worried what would happen to them. Isn't this a problem as well, this kind of debt they can incur?

The Tax Code makes the presumption that if someone is a full-time student under the age of 23, they are financially dependent on their parents or guardians. The Tax Code makes that presumption. Is it so much to ask that credit card issuers find out if someone under the age of 21 is financially capable of paying back the debt or that their parents are willing to assume the financial responsibility or someone else? Again, I know there are a lot of young people who are out working full-time jobs and going to school simultaneously. This isn't a big burden —they need to have that credit card—to say to them, look, just demonstrate, through a W–2 form or something, that you can pay back or you have the ability to pay back. That is not a lot to ask. Believe me, the credit card companies can do it on the Internet. They can do it in a matter of a nanosecond if they want to.

Why don't they want to? What is the hesitation? Don't tell me it is the bureaucracy. It is not the bureaucracy. They require it of adults who are older than that. They don't give platinum credit cards out to people who are not

in college without getting some information about their ability to pay. Why is it in this age group that they are willing to give it to you on a signature and a student ID? I think we all know the answer why. It is outrageous. It is getting worse all the time. I mentioned to you the numbers have almost doubled in a year in terms of the amount of debt being held. Last year, when I offered the amendment, it was $3,000. Now it is at almost $7,000 worth of debt they are incurring.

I hope our colleagues will be willing to support this modest amendment. It is not a great deal to ask. As I mentioned, 430 colleges have banned credit cards from soliciting on their campuses. They know what the problem is. When we have the president of one of the major criminal justice schools in the country talk about what a drastic problem this is having on enrollment, these are serious people. They are not anticredit card. They are not antibusiness. They are not against young people having credit cards. They see what is happening on their campuses. We ought to pay attention to them and listen to them. To ignore them or to say it doesn't make any difference would be an outrage.

How can we pass a bankruptcy bill, as we try and cut down on the number of bankruptcies, and allow this situation to persist where one out of every five college students has $10,000 of credit card debt? How can we allow that to persist without setting some minimum standards that these people have to meet before they can incur that kind of debt? I suspect the credit card companies will be probably lax in what minimum standards they might even permit, but at least it might put the brakes on a little bit, just a little bit.

We have also received some strong endorsements of this amendment: the American Federation of State County Municipal Employees; the Communication Workers of America, International Brotherhood of Boilermakers, Blacksmiths; International Brotherhood of Teamsters; the Union of Needletrades, Industrial & Textile Employees; the United Automobile, Aerospace and Agricultural Implement Workers; United Food & Commercial Workers International, representing millions of working families.

Why do the unions care about a credit card bill? Because these are the parents of these kids. That is why they care about it. This isn't a union issue. These are the hard-working parents who are working two and three and four jobs to send their kids to college. They turn around and some credit card company mounts up a $10,000 debt on their back. Their kids have to drop out, after they have worked 20 or 30 years, saving to put their families through school, understanding the value of a higher education. Now the credit card companies say, no, that is too much to ask of us. You are asking way too much, that we require an 18-year-old to have a cosigner of the credit card application or to show that they have the means of paying back the debt. That is why the millions who are represented by these unions have offered such strong support of this legislation.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD at this juncture.

There being no objection, the letter was ordered to be printed in the RECORD, AS FOLLOWS:

NOVEMBER 8, 1999.

DEAR SENATORS KENNEDY AND DODD: We support your amendment to the bankruptcy bill (S. 625), that would prohibit credit card issuers from recklessly extending credit to young people who do not have adequate means to repay their debts. Predatory lending by card issuers is one of the most significant reasons why the number of bankruptcies among those under age 25 has grown by 50 percent since 1991.

This amendment would prohibit the issuance of credit cards to persons under age 21, unless a parent, spouse, guardian or other individual acts as co-signer, or the minor can demonstrate an independent source of income sufficient to repay. The amendment would not limit the extension of credit to the millions of working young Americans who have an adequate income and are as deserving of credit as anyone over the age of 21.

The serious problem of predatory lending by credit card issuers to young people has been well-documented. Credit card issuers aggressively target young people, especially college students. It is nearly impossible for students, including those in high school, to avoid credit card pitches. Students now receive cards at a younger age, with 81 percent of students who have at least one card having received it before college or during their freshman year.

The level of revolving debt among young people is rising to alarming levels, with sometimes tragic consequences. Family tensions arise as parents attempt to pay off these obligations. Poor credit ratings hinder young people in the job and real estate markets. Students are forced to drop out of school to pay off their credit card debt.

Credit card issuers are well aware that most young people lack basic skills in personal finance. A recent survey (1997) of the financial literacy levels of high school seniors showed that only 10.2% scored a ''C'' or better and that students who use credit cards know no more about them then students who don't.

This amendment is consistent with the opinion of the American public. An April, 1999 poll by the Consumer Federation of America/Opinion Research Corporation International found overwhelming support at all age groups for the terms proposed by this amendment. We join them in supporting it.

Thank you for your leadership on this important issue.

American Federation of State, County & Municipal Employees (AFSCME); Communication Workers of America (CWA); International Brotherhood of Boilermarkes, Iron Ship Builders, Blacksmiths, Forgers & Helpers; International Brotherhood of Teamsters; Union of Needletrades, Industrial & Textile Employees (UNITE); United Automobile, Aerospace and Agricultural Implement Workers of America (UAW); United Food & Commercial Workers International Union (UFCW); United Steelworkers of America (USA).

Mr. DODD. I hope we can get a strong vote on this amendment. This shouldn't take much time. It is very little to ask. The credit card companies are the ones who have asked for this bill on bankruptcy reform. I am sympathetic to the bill because I do think there are far too many bankruptcies in the country. If we are to try to reduce the number of bankruptcies, we have to reduce the rationale or the reason why people are going to the bankruptcy courts in the first place. These are not all evil people. These are not all scam artists who are trying to game the system. The overwhelming majority of people who go to a bankruptcy court have gotten in way over their heads. You can say they have been irresponsible. That may be the case.

But I will tell you, for an awful lot of families, they have kids in college and those adolescent kids became irresponsible. I know of very few who don't get irresponsible in their adolescent years. The danger today is that they can get deeply in trouble. It isn't just a college prank that may get them in trouble. Now you have major credit card companies dumping 50 solicitations into their mailboxes in their dormitories in the first semester in college. With a student I.D. and a signature, they get themselves $10,000 into trouble. Requiring these companies to at least get some basic information may slow down this process. It will do a lot to reduce the volume of bankruptcies in this country, to reduce the ability of an 18- or 19-year-old, with no independent means of paying back their debts, from getting these cards in the first place, and saving these families the anguish and heartache and the dashed dreams that a young college student has when they go off for the first time. Many of them, by the way, are the first people in their families ever to go to college. Think how the families feel—the excitement, the thrill of a young person going off to college, from a blue collar working family in this country who never had that opportunity. All of a sudden they get a deluge of platinum credit cards flooding their mailboxes, the kids sign up, and the dreams of a family go down the drain in a matter of weeks.

This ought not to be a Democrat or Republican issue, conservative or liberal issue. This is a commonsense issue. This is basic common sense, which says to these companies that, with 18- to 21-year-olds, there has to be some cosigner, or some demonstration of an independent means to pay back. If you turn down this amendment and you turn around and say we ought to stop these bankruptcies, then you make it harder for these families to get out of these obligations and straighten out their lives. I know an awful lot of good people who have gotten themselves behind the eight ball financially; they are not evil, bad people. Because they get into a little trouble, particularly at 18 or 19 —and one out of five of them are $10,000 in debt—doesn't mean they ought not to have an opportunity to straighten things out. The best way is not to get into trouble in the first

place. The way not to get into trouble in the first place is to put some governor—you know how we do with automobiles with young people, where the car can't go more than 60 miles an hour, because we know there is a danger of a young person going too fast. Why not put a governor here on the credit card companies and slow them down. They can make their solicitations, send the solicitations in there, but require that these young people have a cosigner or a demonstration of an independent means to pay. If they can't do that, then you move on to someone else who can. But don't sign up a young person and put them and their family into harm's way and pass a bankruptcy bill that doesn't allow them to take the bankruptcy act when those debts mount up.

So I hope that our colleagues will support this amendment. This will be a good way for us to build strong bipartisan support for this bill.

With that, I yield the floor.

The PRESIDING OFFICER. The chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I have to rise in opposition to the amendment offered by the distinguished Senator from Connecticut, Mr. DODD. It would require young adults under the age of 21 to obtain parental consent or demonstrate an ''independent means of repaying'' in order to get a credit card. This amendment also caps the amount of credit a young adult can get to $1,500.

Mr. President, I believe this amendment is well-intentioned. However, if adopted, it would unfairly put young adults between the ages of 18 and 21 at a disadvantage by putting serious obstacles in their way, or, in some cases, bar them from obtaining credit cards altogether. Young adults today, whether they are serving in our Nation's military, or going to college, or trying to support a young family, do not need these hurdles placed in their path. This amendment would have an adverse effect on temporarily unemployed adults over the age of 18 who are independent of their parents, the twenty-year-old single mother, the twenty-year-old discharged from the military service, or a twenty-year-old worker between jobs—often the very person most needing the extension of credit.

I understand how difficult times can be for young adults. When I was 16 years of age, I was a skilled building tradesman. I knew a trade. I went through a formal apprenticeship and became a journeyman. I was proud of it. I was capable of supporting my family at that time. I worked as a janitor to put myself through college. I believe it is an insult to young adults to put in doubt their ability to get credit.

In addition, this amendment does not appear to be well thought out. For example, it makes absolutely no provision for young adults who may be estranged from their parents or whose parents or guardians may be deceased. It is also unclear what new burdens will be placed on lenders to verify the authenticity of a parent's or guardian's signature. I also can't resist pointing out that many of the very same folks who oppose parental consent for abortion are in favor of parental consent for getting a credit card. That seems a little odd to me.

I can appreciate that there have been some instances when young adults have been extended credit beyond their ability to repay. But it does not strike me as a reasoned public policy, in an effort to tackle the occasional abuse, to discriminate against the many honest, hard-working, decent young people between the ages of 18 and 21 who rely on credit to make their lives a little bit more livable, or even sustainable.

I also must point out that individuals under age 18 cannot enter into binding contracts, and therefore any credit inadvertently extended to them is unenforceable.

The amendment would undermine a fundamental purpose of bankruptcy reform: to make individuals take more responsibility for their personal finances. I believe that the vast majority of young adults between the ages of 18 and 21 are responsible citizens, and they do not need the big Government to tell them what they can or cannot do in this area. I oppose treating adults as if they are children; therefore, I have to oppose this amendment.

Let me make a correction. This amendment does not place a cap on the amount of credit a minor can get. I misspoke and I confused it with an amendment filed that was identical to this, only it does have the cap. So I will make that clear and make that correction.

Mr. DODD. Will my colleague yield for another correction?

Mr. HATCH. Yes.

Mr. DODD. It says parents, guardians, or any other qualified person can cosign. It is not limited to parents. If the parents were deceased or the guardians were deceased, a qualified person could cosign. So we allow for a broader range of options here.

Mr. HATCH. I thank the Senator. I will certainly make that correction.

I still believe we ought to treat them as young adults. We ought to recognize that many people who really qualify for credit cards in these age groups ought to be able to get them with or without anybody else's consent. Many of them live up to the obligations that they incur; in fact, most of them do. I don't think we should, as a public policy matter, make this particular change that my dear friend from Connecticut has suggested. We are sending these young men and women over 18 years of age to war. They can vote at 18. They can do almost anything. Now we want to take away their right to have a credit card. I think that is bad public policy. I hope our colleagues will defeat this amendment when it comes up for a vote. With that, I believe we are ready to recess.

Mr. DODD. Mr. President, I just have one minute in response. As my friend from Utah knows, shortly, we have an amendment that we are going to offer together on this bill. I am sorry we don't agree on this. As I mentioned earlier, we do set some restrictions. We can send men and women to war at age 18, but we don't allow them to drink; we set a standard of 21. We did so because of the dangers that we decided alcohol posed to young people. The Tax Code says there is a rebuttable presumption that at 23-year-old college student has an obligation that shifts to parents.

All I am requiring here is that the credit card companies, when they solicit an 18 or 19 year old, require that they show they have the independent means of paying for it or that they have a guardian or a qualified person who will cosign. The same thing would be required of someone else. One out of five students has $10,000 worth of financial debt and obligation. We are being told now one of the single largest reasons for disenrollment in higher education is because of this mounting—and it has doubled in the last two years—amount of credit card debt among 18-, 19-, and 20-year-olds.

It ought not to be a great deal to ask they meet these basic, simple requirements. They can solicit; they can collect. If they can sign them up, God bless them, go to it. However, for a student ID and a signature to get $10,000 worth of debt for one out of five college students—and the average student has $2,000 worth of debt and was not paying the monthly payments—is too much for the families to be burdened with.

I ask unanimous consent a letter from the Consumer Federation of America, the Consumers Union, the National Consumer Law Center, the U.S. Public Interest Research Group, and the U.S. Student Association, all of which support this amendment, be printed in the RECORD.

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

NOVEMBER 8, 1999.

RE: Support for Dodd/Kennedy Amendment #2754 to Bankruptcy Bill

DEAR SENATOR, The undersigned organizations strongly support this amendment to the bankruptcy bill regarding the extension of credit to young Americans. This common sense proposal would forbid banks and other credit card issuers from granting credit to any person under 21 years-of-age, without the signature of a parent or guardian or proof of an independent means of repaying the debt incurred.

This amendment would not result in denials to credit-worthy young people, but it would protect financially unsophisticated young consumers from being enticed into a financial trap. A recent study by the Consumer Federation of America found that previous research has underestimated the extent of credit card debt by college students, as well as the social impact of this debt on students. The study documents the consequences of high levels of indebtedness for many students, including dropping out of college, difficulty finding good jobs, and in

particularly tragic circumstances, extreme psychological stress and suicide.

Minors are increasingly targeted in credit card marketing campaigns. Direct solicitation of college students has intensified significantly in the past few years as high profitability has encouraged card issuers to take on riskier customers. Cards are available to almost any student with no income, no credit history and no parental signature required. Issuers know that young customers are often ''brand loyal'' to their first card for many years. They also know that many parents will pay off excessive credit card debt accumulated by their children, even though they are under no legal obligation to do so.

As a result, approximately 70 percent of undergraduates at four-year colleges possess at least one credit card. Moreover, students are obtaining their first credit card at a young age. Accordingly to the non-profit student loan provider Nellie Mae, 66 percent of college students with at least one card received their first card before college or during their freshman in 1996. By 1998, 81 percent had received their first card by the end of their freshman year.

Student credit card debt is larger than previously estimated. The Consumer Federation of America study found that college students who do not pay off their balances every month have an average debt of more then $2,000, with one-fifth of these students carrying debts of more than $10,000. Additional credit card debt is often ''refinanced'' with student loans or with private debt consolidation loans. At some schools, college loan debt averages $20,000 per graduating senior.

More than one quarter of all students reported paying late on a credit card at least once in the last two years, according to a 1998 survey by the U.S. Public Interest Research Group. One-quarter of students questioned in the survey also reported using a cash advance to pay their debts. Poor credit records and credit card defaults have lasting consequences, including the classification of the student as a high risk/high rate borrower and decreased access to rental housing, car loans and home mortgage loans.

Many colleges and universities not only permit aggressive credit card marketing on campus; they actually benefit financially from this marketing. Credit card issuers pay institutions for sponsorship of school programs, for support of student activities, for rental of on-campus solicitation tables, and for exclusive marketing agreements, such as college ''affinity'' credit cards.

Card issuers are well aware that high school and college students don't have basic financial skills. A 1993 survey of college juniors and seniors by the Consumer Federation of America and American Express found:

Just 22 percent knew that the APR was the best indicator of the cost of a loan;

Just 30 percent knew that interest rates on credit cards are set by the issuing bank, not Visa, MasterCard of the government;

Just 30 percent knew that the grace period was not available when a credit card balance is carried from month-to-month.

The American people strongly support restricting aggressive lending practices by credit card issuers. A national poll conducted for the Consumer Federation of America in April 1999 by Opinion Research Corporation found that 80 percent of those surveyed supported restrictions on the extension of credit cards to people under age 21.

Without this reasonable amendment, direct solicitation of college and high school students without the ability to repay will continue unabated. For more information, contact Travis Plunkett at (202) 387–6121.

Sincerely,

Travis B. Plunkett, Consumer Federation of America; Frank Torres, Consumers Union; Gary Klein, National Consumer Law Center; Ed Mierzwinski, U.S. Public Interest Research Group; Kendra Fox-Davis, U.S. Student Association.

Mr. HATCH. I ask unanimous consent to set the Dodd amendment aside.

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

Mr. HATCH. I ask unanimous consent I be given an extra minute and a half.

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

AMENDMENT NO. 2536

(Purpose: To protect certain education savings)

Mr. HATCH. Mr. President, I ask unanimous consent to call up amendment No. 2536, a Hatch-Dodd-Gregg amendment relating to the protection of educational savings accounts.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. DODD and Mr. GREGG, proposes an amendment numbered 2536.

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

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

The amendment is as follows:

On page 83, between lines 4 and 5, insert the following:

SEC. 2___. PROTECTION OF EDUCATION SAVINGS.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, as amended by section 903, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking ''or'' at the end;

(B) by redesignating paragraph (6) as paragraph (8); and

(C) by inserting after paragraph (5) the following:

''(6) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were placed in such account;

''(B) only to the extent that such funds—

''(i) are not pledged or promised to any entity in connection with any extension of credit; and

''(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

''(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

''(7) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;

''(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

''(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000; or''; and

(2) by adding at the end the following:

''(f) In determining whether any of the relationships specified in paragraph (6)(A) or (7)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 105(d), 304(c)(1), 305(2), 315(b), and 316 of this Act, is amended by adding at the end the following:

''(k) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).''.

Mr. HATCH. Mr. President, I thank Senator DODD for his efforts and cooperation in working on this important amendment.

I am pleased to offer along with Senators DODD and GREGG, an amendment to S. 625, the Bankruptcy Reform Act of 1999, that will protect education IRAs and qualified State tuition savings programs in bankruptcy. Education IRAs and qualified State tuition savings programs permit parents and grandparents to contribute funds for the tuition and other higher education expenses of their children and grandchildren. Under current bankruptcy law, creditors may access such accounts to satisfy debts owed by parents and grandparents.

The amendment I offer today balances the interest of encouraging families to save for college, with the interest of preventing the potential abuse of transferring funds into education savings accounts prior to an anticipated bankruptcy. Specifically, the amendment provides that contributions to education savings accounts made during the year immediately prior to the bankruptcy filing are not protected in bankruptcy and may be accessed by creditors; contributions up to $5,000 per beneficiary made in the second year prior to filing, however, are protected, as are all contributions made more than 2 years prior to the bankruptcy

filing. To combat potential abuse, debtors must disclose their full interest in such accounts in the statement of financial affairs filed with the bankruptcy court. With respect to education IRAs, there is no limit on the amount that may be excluded from the bankruptcy estate, though the size of education IRAs are effectively limited by the $500 annual contribution limit. With respect to qualified State tuition savings programs, the excluded amount is the full, State-established amount deemed necessary to provide for the qualified education expenses of a beneficiary.

College savings accounts encourage families to save for college, thereby increasing access to higher education. In my home State of Utah, 775 children, with account balances nearing $1.2 million, are beneficiaries of such accounts. Nationwide, over one million children benefit from such accounts. Bona fide contributions to such college savings accounts, which are made for the benefit of children, should be beyond the reach of creditors. The ability to use dedicated funds to pay the educational costs of current and future college students should not be jeopardized by a bankruptcy of their parents or grandparents. The amendment I offer today prevents bona fide educational accounts of children from being accessed by their parents' or grandparents' creditors, while also protecting this exclusion from being abused as a means of sheltering assets from the bankruptcy estate.

I urge your support of this amendment.

Mr. DODD. I ask unanimous consent I be able to speak for up to 2 minutes.

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

Mr. DODD. I know this will be somewhat confusing to people watching the debate over the last 15 or 20 minutes, but this is an amendment offered by my distinguished friend and colleague from Utah of which I am a cosponsor. This is a very good amendment. We hope our colleagues will support it.

Many parents have put aside money for college education in special accounts. This ought not to be the subject of first attack when creditors come after family income.

I commend my colleague from Utah for trying to preserve and protect these resources which working families spend years trying to accumulate, and then get behind the 8 ball for problems that may not be of their own making, and all of a sudden the resources are subject to attack. This is a good amendment that will strengthen working families' ability to educate their children. I commend my colleague from Utah for offering it. I am pleased to be a cosponsor of it.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. I ask unanimous consent, notwithstanding the order for recess, I be permitted to speak for 2 minutes as in morning business.

Mr. FEINGOLD. Mr. President, I ask unanimous consent, as part of the request of the Senator from Missouri, I be allowed to speak for up to 12 minutes. At the conclusion of the 12 minutes, I will call up an amendment.

Mrs. LINCOLN. I ask unanimous consent to be able to address the Senate as in morning business for 7 minutes.

The PRESIDING OFFICER. The problem is, the previous order says 12:30 so we can attend policy conferences. That runs me past the time for making decisions as a part of that conference.

Is there a way to reduce the time so we can complete statements by 12:45?

Mr. BOND. I just asked for 2 minutes, and I will make it shorter than that.

Mr. FEINGOLD. Mr. President, the managers have asked Members to offer amendments. I am trying to offer an amendment. I need 11 minutes in order to present the amendment. I am trying to facilitate the progress on the bill. I thought this would be a good opportunity. It is a total of 11 minutes. The conferences don't really begin in earnest until 1 o'clock anyway.

I renew my request to be granted 12 minutes total.

Mrs. LINCOLN. I will certainly try to complete my statement in 5 minutes.

The PRESIDING OFFICER. The Chair objects.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:35 p.m., recessed until p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. INHOFE].

Mrs. LINCOLN. Mr. President, I ask unanimous consent to proceed in morning business for 7 minutes.

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

LITTLE ROCK NINE AND DAISY BATES

Mrs. LINCOLN. Mr. President, mere words seem inadequate to honor the courage of some people and so I am humbled to lend my voice to the chorus of praise for the Little Rock Nine, who today will receive the Congressional Gold Medal, and I will also speak in remembrance of Daisy Bates, a daughter of Arkansas and a civil rights activist.

Receiving the medal today are: Jean Brown Trickery, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wait, Ernest Green, Elizabeth Eckford, and Jefferson Thomas. As teenagers, when they bravely walked through the doors of Central High School in Little Rock, they led our Nation one step closer to social justice and equality. While it is still painful to look at pictures from that time, where white teens sneered at their black peers, seeing the harsh face of hatred opened our Nation's eyes and propelled the civil rights movement forward.

Before the ''Crisis of 1957,'' as some call the events at Central High, Little Rock was not associated with the pervasive segregation of the Deep South. In fact, Little Rock was considered quite a progressive place and some schools in Arkansas had already integrated following the Brown v. Board of Education decision in May of 1954. So, when nine students sought to integrate Central, few Arkansans envisioned a confrontation with the National Guard at the schools entrance. And I doubt many imagined the long-lasting, profound effects of this confrontation on the entire State. While the country witnessed countless images of this face-off, they were not necessarily aware of the continuing abuse endured by the Little Rock Nine, or the fact that Central High School had to be closed because the atmosphere was so hostile.

Now, we all know that the high school years aren't easy for any teenager. For these men and women, high school was inordinately difficult. In addition to enduring the verbal taunts and even beatings, some had to uproot to other schools in the middle of the school year. Luckily for Carlotta, Thelma, Ernest, Jefferson, and the others, a woman named Daisy Bates entered their lives as a ''guardian angel'' of sorts.

According to Daisy's own accounts and those of the Little Rock Nine, the students would gather each night at the Bates' home to receive guidance and strength. It was through the encouragement of Daisy Bates and her husband, L.C., that these young men and women were able to face the vicious and hateful actions of those so passionately opposed to their attendance at Central. Ironically, Daisy Bates passed away last Thursday. She was laid to rest this morning, the very day the Little Rock Nine will receive their medals. I know she is with us in spirit—acting again as a guardian angel to these brave men and women. This great woman leaves a legacy to our children, our State and our Nation: a love of justice, freedom, and the right to be educated. As a result of her efforts, the newspaper Mrs. Bates and L.C. published was forced to close. She and L.C. were threatened with bombs and guns. They were hanged in effigy by segregationists. But Daisy Bates persevered. She did all this, withstood these challenges, because she loved children and she loved her country. She had an internal fire, instilled in her during a childhood spent in Huttig, AR. And this strong character shone through as she willingly took a leadership role to battle the legal and political inequities of segregation in our state and the nation.

Many have called that confrontation at Central High an historic moment, a pivotal moment, a defining moment.