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BANKRUPTCY REFORM

Mr. GRASSLEY. Mr. President, I rise today to discuss the impact of Public Law 109-8, the bankruptcy reform legislation of which I was the lead sponsor here in the U.S. Senate. On October 17, 2006, we will see the one-year anniversary of the new law. This law was the result of many years of comprehensive study and intense debate in Congress. There was much give and take among all interested parties over several Congresses, and the final bill that was signed into law was the result of compromise, upon compromise, upon compromise. In fact, people tend to forget that this law passed both the House and Senate by wide bipartisan margins. It is a law that was sorely needed. It is a law whose central premise—if an individual wants to file for bankruptcy and can repay some of his debt, he should do just that, repay some of that debt—is supported by almost everyone. The law's central premise is about fairness. It is about good old common sense.

The bankruptcy reform legislation was driven by a desire to restore balance to a system that had become too easy: a system where clever lawyers gamed the integrity of the bankruptcy system for the benefit of those who wanted to get out of their debts scott-free and to the detriment of those who played by the rules. In fact, bankruptcy rates in the 1990s and early 2000 timeframe exceeded bankruptcy rates during the Great Depression, despite the fact that the economy was going strong during much of this time. So with this law we closed some loopholes, made upper-income Americans repay more of their debts if they were going to seek bankruptcy, and enacted important consumer protection provisions so people could be more knowledgeable about their finances. The law retained bankruptcy for those who truly are in need of that relief, while injecting more integrity and fairness in the bankruptcy system.

So how has the new bankruptcy law worked? So far, I think it is too soon to make firm judgments. But early reports indicate the new law has been working very well. We have seen bankruptcy rates fall dramatically from about 2 million bankruptcies in 2005 to the point where I doubt there will be over 1 million bankruptcies in 2006, if current trends continue. In my mind, this is bound to help the American economy. Fewer bankruptcy filings lead me to believe that only those individuals who truly are in need of a fresh start are filing for relief. Furthermore, a natural outgrowth of fewer bankruptcy filings is a much lower cost to the American consumer and the U.S. economy.

As my colleagues may recall, the Clinton administration's Treasury Secretary, Larry Summers, told Congress

that high levels of bankruptcies tend to push up interest rates. I have called that the "bankruptcy drag" on the economy. It is just common sense. When a business loses money because a customer files for bankruptcy instead of paying his bill, that business has a couple of options: Either the business can absorb the loss and spend less on growth and expansion or the business can increase what it charges other customers to offset the loss, imposing what many of us in Congress called a bankruptcy tax. It follows that businesses can weather the storm when the occasions where customers don't pay their bills are relatively rare, but when you have a scenario where filing bankruptcy is easy and customers are filing bankruptcy on a regular basis—whether they really need it or not, no questions asked—and they aren't paying their bills, well, then businesses get into trouble. Unfortunately, businesses that don't get paid aren't the only ones impacted by this.

The reality is, either way, ultimately it is the consumers and the economy that suffer the most when bankruptcies spiral out of control. People who play by the rules and pay their way are the ones who end up picking up the tab. I would rather see the "bankruptcy drag" reduced, freeing up businesses to grow, add jobs, and contribute to the Nation's economy and the people's prosperity. I would rather see the \$400 "bankruptcy tax" burdening American families each year reduced so they can spend their money in a more productive way. And based merely on the bankruptcy filing numbers available from the Federal courts, I think that it is fair to say that Public Law 109-8 has been a success for our economy. Public Law 109-8 has driven a stake through the heart of this bankruptcy drag.

I have struggled with how to put a dollar figure on how much bankruptcy reform has saved the economy since it became the law of the land. During Congressional debate, we received testimony that the average amount discharged in bankruptcy is \$41,000 per filing. If one does some simple math, taking the total number of consumer bankruptcies filed in the first half of this year and doubling that number, it seems we could see about 550,000 consumer bankruptcies in 2006—perhaps a little more, perhaps a little less.

As I said, the Federal courts reported that we had just over 2 million consumer bankruptcies filed in 2005. So using the \$41,000 figure, bankruptcy losses cost our economy \$82 billion in 2005. On the other hand, it looks as if, because of the new law, bankruptcy losses for 2006 will only be about \$22.5 billion. Let me repeat: \$82 billion in 2005 and \$22.5 billion in 2006 after the law was put in effect.

We are not talking peanuts. That is a substantial savings for our economy. That is around \$60 billion that would have been lost, that would have put a drag on our economy. And I am confident that at least some of that money

has been or will be redirected to economic growth. If this isn't success, I don't know what is.

It is also important to remember the unprecedented new consumer protections included in the new bankruptcy law. Let me mention some of them. Retirement savings receive more protections from the reach of creditors. Likewise, education savings also receive enhanced protections under the new law. And lenders who won't compromise with financially-troubled borrowers can be penalized for not negotiating out-of-court settlements.

People considering filing for bankruptcy now have access to no-cost or low-cost credit counseling and financial education. We want people who make bad financial choices to learn how to deal with their finances and quit the spending cycle. After all, better educated consumers are a benefit to everyone. The law even encourages education of young people on how to manage their money. And credit card companies are required by the new law to warn consumers about the dangers of making only minimum payments and to clearly identify payment amounts.

Moreover, bankruptcy mills that deceived people into filing for bankruptcy when they had other options available are now subject to new regulation. People should be aware that bankruptcy is not the only way out in times of financial trouble. Even a Federal Trade Commission Alert warned against bankruptcy mills and advised the American consumer that filing for bankruptcy adversely affects an individual's credit rating. Bankruptcy should be a last resort, rather than the first step in regaining one's financial bearings.

So, all in all, Public Law 109-8 contains some of the most sweeping consumer protections enacted by Congress in a long time.

Of course, as I said earlier, it is too early to gauge the full impact of Public Law 109-8. Bankruptcy attorneys so frightened consumers by exaggerating the impact of bankruptcy reform that many consumers rushed to file prior to enactment of the law. And after the law was enacted, many consumers who truly need bankruptcy were scared away.

Some of the consumer protections contained in the law—such as minimum-payment warnings for credit cards and the like—have not yet been implemented by the Federal Reserve.

Also, the debtor attorneys who want to operate bankruptcy mills are seeking to get out from under the new regulations by claiming in court to have a constitutional right to advise consumers to run up debt on the eve of bankruptcy and not comply with the new law. I am pleased that the Justice Department is aggressively resisting this effort. These lawyers just want a license to go back to their old ways of making a quick buck by shuffling unsuspecting consumers into bankruptcy without advising them of the

downsides of bankruptcy or their alternatives. These lawyers also are dragging down our economy. Bankruptcy should be reserved for those persons who have no other options, not for people who use clever legal advice to make big purchases on the eve of bankruptcy with no intention of ever repaying the debt because they can wipe away their debts clean, no questions asked.

So I will keep a watchful eye on developments in the future. But for now, almost one year later, bankruptcy reform seems to have been a success.

FIFTH ANNIVERSARY OF ANTHRAX ATTACKS

Mr. LEAHY. Mr. President, In the autumn of 2001, while the Nation was still reeling from the reality of our airplanes being turned into weapons of terror, someone, somewhere, launched another deadly terrorist attack using our postal system to deliver their weapon of choice—anthrax. Those anthrax-laced letters targeting several journalists and public officials, among them Senator Daschle and myself, jarring an already fearful Nation.

Receiving that letter was a chilling and personal reminder that the threat of terrorism was not temporary, nor was it an ocean away. Thankfully, my staff and I were unharmed, but others were not so lucky. The terrorists who sent these letters struck 22 people ranging in age from 7 months to 94 years, and the attacks resulted in the deaths of five Americans. They were people who died by simply touching an envelope—in some cases the mail was addressed to them, and in other instances, it was an envelope meant for someone else. Yet all of these people died as a result of doing what so many of us do every day—our jobs.

Five years after those attacks and 5 years into the global war on terror, there is still no perpetrator who has been arrested or convicted for these attacks. Every year around the time of the anniversary—we learn that the FBI is still working on this case and that it remains a high priority for the Bureau. Many skilled and talented people have worked diligently on this case, bringing to bear some of the most advanced forensic technology in the world.

The victims of the anthrax attacks varied in gender, race, religion, age, economic status and locale, but they all shared in the suffering. The victims who suffered the most were employees of the U.S. Postal Service, of the Department of State, of news organizations and of the Senate, and the aides, the children, and the senior citizens whose mail came in contact with the anthrax-laden letters.

Robert Stevens, a photo editor at The Sun newspaper in Boca Raton, Florida, died on October 5, 2001, at the age of 63. Thomas Morris, Jr., a Washington, DC, postal worker, died on October 21 at the age of 55. Joseph Curseen, also a Washington, DC, postal worker, died on October 22 at the age of

47. Kathy T. Nguyen, a New York City hospital worker, died on October 31 at the age of 61. And Otilie Lundgren, a 94-year-old Connecticut retiree, died on November 21.

Many of those who survived anthrax exposure remain severely debilitated, suffering from chronic cough, fatigue, joint swelling and pain, and memory loss. Several victims have been diagnosed with depression and anxiety and are still tormented by nightmares. Many cannot return to work, and some of those who have returned are unable to do even routine tasks without difficulty. Victims say they communicate very little with one another, mostly fighting their battles alone.

On October 16, 2003, I introduced a bill to amend the September 11th Victim Compensation Fund of 2001 to provide compensation for anthrax victims on the same basis as compensation is provided to victims of September 11. The bill never made it out of the Judiciary Committee. Without this appropriate help, the surviving victims struggle to pay their medical bills and get by on worker's compensation, and many report feeling like they have borne the brunt of the anthrax attacks alone. This surely exacerbates the emotional and psychological difficulties that many anthrax victims experience. Congress should act to help these people, who are victims of the national experience of these terrorist attacks, and they should be treated accordingly.

Congress and the American people hope for answers and for a resolution of this case. We hope that lessons have been learned from it that will help prevent or minimize future biological attacks. In the meantime, let us remember the loss and the suffering of those who fell victim to this deadly episode of terrorism on our soil.

IRAQ AND U.S. NATIONAL SECURITY

Mr. FEINGOLD. Mr. President, I have listened intently over the past few weeks as the President, members of his Cabinet, and Members of this Chamber have discussed Iraq, the war on terror, and ways to strengthen our national security.

For years, now, I have opposed this administration's policies in Iraq as a diversion from the fight against terrorism. But I have never been so sure of the fact that this administration misunderstands the nature of the threats that face our country. I am also more sure than ever and it gives me no pleasure to say this—that this President is incapable of developing and executing a national security strategy that will make our country safer.

As we marked the fifth anniversary of 9/11 this month, we recalled that tragic day and the lives that were lost in New York, at the Pentagon, and in Pennsylvania. And we all recalled the anger and resolve we felt to fight back against those that attacked us. This

body was united and was supportive of the administration's decision to attack al-Qaida and the Taliban in Afghanistan. No one disputed that decision.

That is because our top priority immediately following 9/11 was defeating the terrorists that attacked us. The American people expected us to devote most of our national security resources to that effort, and rightly so. But unfortunately, 5 years later, our efforts to defeat al-Qaida and its supporters have gone badly astray. The administration took its eye off the ball. Instead of focusing on the pursuit of al-Qaida in Afghanistan, it launched a politically motivated diversion into Iraq—a country with no connection to the terrorists who attacked us. In fact, the President's decision to invade Iraq has emboldened the terrorists and has played into their hands by allowing them to falsely suggest that our fight against terrorism is anti-Muslim and anti-Arab, when nothing could be further from the truth.

But instead of recognizing that our current policy in Iraq is damaging our national security, the President continues to argue that the best way to fight terrorists is to stay in Iraq. He even quotes terrorists to bolster his argument that Iraq is the central front in the war on terror. Just recently, he told the country that Osama bin Laden has proclaimed that the "third world war is raging" in Iraq" and that this is "a war of destiny between infidelity and Islam."

Instead of letting the terrorists decide where we will fight them, the President should remember what he said on September 14, just 2 days after 9/11. He said, and I quote, "[t]his conflict was begun on the timing and terms of others. It will end in a way, and at an hour, of our choosing." The President was right when he said that, and he is wrong to suggest that we must stay in Iraq because that is where the terrorists want to fight us. We must fight the terrorists where they don't want to fight us—and that means engaging in a global campaign, not focusing all of our resources on one country.

The way to win a war against global terrorist networks is not to keep 140,000 American troops in Iraq indefinitely. We will weaken, not strengthen, our national security by continuing to pour a disproportionate level of our military and intelligence and fiscal resources into Iraq.

Unfortunately, because of our disproportionate focus on Iraq, we are not using enough of our military and intelligence capabilities for defeating al-Qaida and other terrorist networks around the world. While we have been distracted in Iraq, terrorist networks have developed new capabilities and found new sources of support throughout the world. We have seen terrorist attacks in India, Morocco, Turkey, Afghanistan, Indonesia, Spain, Great Britain, and elsewhere. The administration has failed to adequately address the terrorist safe haven that has