boost the chances that debtors would be required to continue paying some debts even after a plan's successful completion.

Todd Zywicki, a law professor at George Mason University in Virginia, said the shift away from the ''fresh start'' philosophy is justified because another bedrock American value—that people who incur debts should pay them—is being sullied under the current system.

But many bankruptcy judges and independent experts warn that equally compelling values would be lost if the proposed measure becomes law.

Practically, they warn, debtors who would no longer qualify for Chapter 7 and fail to complete Chapter 13 repayment plans would either have to keep paying creditors indefinitely or drop out.

''If you're confronted with a mountain of debt and have no hope of getting out from under it, you're either going to go underground or turn to crime,'' said Kenneth N. Klee, a former Republican congressional staffer who was one of the chief authors of the last major bankruptcy law change in 1978 and now teaches law at UCLA.

More broadly, say judges and others, the ability to start over after running into financial problems should not be discounted.

''Loads of people have filed bankruptcy—Mark Twain, Buster Keaton, Walt Disney,'' said Lundin, the Nashville-based bankruptcy judge. ''Bankruptcy is a very American safety net.

''It's part and parcel of the American dream.''

Mr. Speaker, while this bill fails to improve the bankruptcy system, the bill succeeds in being harsh, punitive and mean-spirited.

The bill is particularly harsh on women who are often the primary care givers for their children or their parents and are the largest single group in bankruptcy; on older Americans who are the fastest growing group in bankruptcy due to medical costs; and on children. Parents seeking child support will compete with credit card companies and other lenders in State courts, but will have little protection and fewer resources than the large credit card companies they are up against.

Finally, the bill does a disservice to those who serve our Nation, especially our National Guard troops and Reservists who are not protected by an amendment passed by the other body.

National Guard and Reservists make up nearly 40 percent of those serving in the Iraqi theater. They often leave behind small businesses and jobs and incur debt, but they do not have the benefits and services offered to active duty Armed Forces.

This bill would not stop abusive creditors who are stalking down military families while their loved ones are serving our Nation bravely and heroically.

I would hope that our Republican colleagues would join us in a bipartisan way to support our motion to recommit that would give some opportunities for the National Guard not to be treated this way under the bankruptcy bill.

As for the bill, instead of addressing real causes of bankruptcy, this bill rewards irresponsible corporate behavior and fattens the already large profits of the credit card industry.

While bankruptcy filings have increased 17 percent in the last 8 years, credit card profits have increased more than 160 percent, from $11 billion to more than $30 billion. There are now 5 billion credit card solicitations a year stuffed into our mail boxes and many targeted at teenagers with no jobs, no income, no visible means of support to pay these credit card bills.

It is an industry with little oversight and loose underwriting that charges enormous fees and unfair interest payments. The legislation does nothing to address these failings. In fact, the other body rejected an amendment to tell customers how much it would cost in additional interest if they make only minimum payments on their credit card bills.

For these and other reasons, Mr. Speaker, I sadly oppose this bill. I say sadly because this is an area where there should not be any major disagreement. If the point is to honor a tradition in our country where people are entitled to a fresh start so they can begin contributing back to our economy and to our society, then we should uphold that; and if people are abusing the system, existing law already covers that.

Instead, we have a situation where it is mean and harsh to those who can least afford to pay back and gives opportunity to the wealthiest, the wealthiest, and corporate abusers of the system.

With that, Mr. Speaker, I am giving my reasons for why I oppose the bill.

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Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, one does not need to get a good grade in Economics 101 to realize that those who pay their bills as agreed end up having to pay for the cost of debts that are ripped off in bankruptcy. The number of bankruptcy filings has exploded. The number of proven instances of people gaming the system and using bankruptcy as a financial planning tool has gone up, and this bill stops those types of abuses.

I would like to quote from page 4 of the committee report from testimony that was given by Professor Todd Zywicki, and he said, ''Like all other business expenses, when creditors are unable to collect debts because of bankruptcy, some of those losses are inevitably passed on to responsible Americans who live up to their financial obligations. Every phone bill, electric bill, mortgage, furniture purchase, medical bill and car loan contains an implicit bankruptcy tax that the rest of us pay to subsidize those who do not pay their bills. Exactly how much of these bankruptcy losses is passed on from lenders to consumer borrowers is unclear, but economics tell us that at least some of it is. We all pay for bankruptcy abuse in higher down payments, higher interest rates and higher costs for goods and services.''

The Credit Union National Association, which is a national organization of nonprofit credit unions that are owned by their members, said that, as of 2002, they lost over $3 billion from bankruptcies since Congress started its consideration of bankruptcy reform legislation in 1998; and CUNA estimates that over 40 percent of all credit union losses in 2004 will be bankruptcy related, and those losses will total approximately $900 million.

Now the credit unions are not the big issuers of credit cards. They are owned by their members, and those members have to pay additional costs of the services of their own credit unions because of the huge write-offs that have been described in this report.

Now if my friends on the other side of the aisle were so concerned about bankruptcy abuse and the fact that this bill does not deal with the problem, they could have spent the time drafting an amendment in the nature of a substitute. They were offered by the Committee on Rules and I requested the Committee on Rules to make such a substitute in order, but, no, all they want to do is criticize, attack and come up with no positive alternatives.

If that is their position, then the bankruptcy tax that everybody realizes is passed on to people who pay their bills as agreed to is on their shoulders, because we are trying to stop the abuse.

I have heard an awful lot about the homestead exemption. If this bill goes down, eight States and the District of Columbia will continue to have an unlimited homestead exemption where corporate crooks can hide their assets from bankruptcy in a homestead and, once they get their discharge, sell that mansion and go off on their merry way. They want to keep that. Our bill closes it.

We have heard an awful lot about asset protection trusts that become the law in a number of States. Page 506 of the bill contains a new section on fraudulent transfers and obligations that says that anybody who creates one of these trusts within 10 years of the date of filing can have that transfer voided if such a transfer was made to a self-settled trust or similar device, such transfer was made by the debtor, the debtor is the beneficiary of the trust or similar device, and the debtor made the transfer with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date such transfer was made, indebted. Our bill closes those asset protection trusts. If the other side votes this bill down, they continue on and the blame for that is on their shoulders.

We have heard an awful lot about medical bills. Well, the people who are complaining about medical bills put a tin ear on to the testimony that has been submitted in this extensive hearing record.

The United States trustees program, independent people who administer the

Bankruptcy Code, collected data and made findings on medical debt. They drew a random sample and, of 5,203 debtors, 54 percent listed no medical debt. Those that did, medical debt accounted for 5.5 percent of the total general unsecured debt; 90.1 percent reported medical debts of less than $5,000; 1 percent of the cases accounted for 36.5 percent of the medical debt; and less than 10 percent of all cases represented 80 percent of all reported medical debt. This is not the big problem that the people on the minority side have said it is. The data from the United States trustees proves this.

Finally, we have heard about debt that has been run up by service people who are on active duty, whether it is the permanent active duty military service or Guard and Reserve members who have been called up to active duty.

In the last Congress, the Congress enacted the Servicemembers Civil Relief Act, Public Law 108–189, which gives protection to people on active duty from collection of these debts by those that they have become indebted to, and this law puts a cap on interest at an annual rate of 6 percent on debts incurred prior to a person's entry into active military duty service.

Mr. Speaker, this is a good bill. It is not a perfect bill. It is a good bill, but it plugs a lot of loopholes that abuse has been generated under, and it does provide protection for medical debts and to our service people.

Let us not listen to the inaccurate statements that have been made by people who have been opposed to bankruptcy reform beginning 8 years ago, long before the military actions in Iraq and Afghanistan. Let us give some protection to the people who pay their bills that they have agreed to from the hidden bankruptcy tax, and the way we do that is by passing this legislation.

Ms. DELAURO. Mr. Speaker, to listen to this majority, we have a crisis in this country—one brought on by spendthrifts defrauding the public via our bankruptcy system. Indeed, to look at the statistics, we are facing a crisis—but it has nothing to do with ordinary Americans acting irresponsibly or even our bankruptcy system.

Last year, more than a million-and-a-half families resorted to declaring bankruptcy—a full half of which occurred not because of any irresponsible behavior but because of unexpected medical expenses brought on by an illness or death in the family. These families—widows and widowers, mothers and fathers, many in the middle-class—are hardly "gaming the system"—they are doing the best they can under unbelievable circumstances that have left them with no choice but to resort to the only recourse they have: filing bankruptcy, wiping their debt and trying their best to start anew.

If there is any "crisis," it is the skyrocketing cost of health care, which has left more than 14 million Americans spending more than a quarter of their every paycheck on medical costs—that Mr. Speaker, is what I call a crisis. A moral crisis.

We can all agree that individuals should be accountable for living beyond their means, but if anyone is "gaming" our bankruptcy system, it is the credit card companies, who have long been advocating for this bill at the same time they prey on unsuspecting customers. And as with previous incarnations of this legislation, there is virtually nothing in the bill that would require creditors to curb their outrageous predatory lending practices that mislead even the most educated consumers into debt.

This bill is especially bad for women, who are the single largest group currently in bankruptcy. By making it harder for them to file for bankruptcy, we will make it more difficult for them to maintain essential items such as the car that gets them to and from their job. Women who are owed child support will be forced to compete with credit card companies and other lenders for dollars to spend feeding and clothing their children. The bill also allows perpetrators of violence against women at health centers to escape liability for their actions through the bankruptcy courts.

Mr. Speaker, this bill is yet another product of an Administration and majority that taxes work and rewards wealth. It appeals to the worst in all of us, painting honest middle-class families who are working hard and taking personal responsibility for their actions as liars, cheaters and spendthrifts. At the same time it lets off the hook those who do act irresponsibly by preserving loopholes which allow wealthy bankruptcy filers to hide their true wealth in mansions and trust funds. I can hardly imagine a more unfair piece of legislation less concerned with promoting the common good, and I urge my colleagues to oppose it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, as I stated with respect to the consideration of the rule, today is a sad day for America, its elderly, its veterans, its bereaved, and its aspirants for a second chance.

This 512-page legislation before the Committee of the Whole simply falls far short of its purported goal of ensuring that every debtor repay as much of her debt as she can reasonably afford. Instead, this bill appeals to special interest groups—mainly credit card companies. The bill's sponsor has said that bankruptcy has become a system "where deadbeats can get out of paying their debt scott-free, while honest Americans who play by the rules have to foot the bill." Given the economic gap as evidenced by the predominance of African American and Hispanic bankruptcy filers, it is clear that these minorities are viewed as the "deadbeats" of society. Given the harmful provisions that are contained within the legislation, it is clear that the Republican Majority wishes to perpetuate this condition.

According to the Democratic Platform: "The heart of the American promise has always been the middle class, the greatest engine of economic growth the world has ever known. When the middle class grows in size and security, our country gets stronger. And when more American families save and invest in their children's future, America grows stronger still . . . Today, the average American family is earning $1,500 less than in 2000. At the same time, health care costs are up by nearly one-half, college tuition has increased by more than one-third, gas and oil prices have gone through the roof, and housing costs have soared. Life literally costs more than ever before—and our families have less money to pay for it. Three million more Americans have fallen into poverty since 2000".

The bankruptcy bill, as it stands, has the potential to crush the dreams and futures of the vast majority of Americans. It will shut the door to the one avenue that is available to those who are eventually overwhelmed by debt.

The proposed bankruptcy bill will lead to a new feudal system. Let me share a few facts with you. Do you know that currently, more that 1 of every 100 adults in America files bankruptcy each year? Families with children are twice as likely to file. Research shows that approximately 50 percent of all families are forced to file bankruptcy due to medical expenses; and other 40 percent of families file bankruptcy due to divorce, job loss or death in the family.

Hispanic homeowners are nearly three times more likely than White homeowners to file, and African American homeowners are nearly six times more likely than White homeowners. African Americans are also twice as likely to lose their homes due to foreclosures, often falling victim to the unscrupulous practices of predatory lenders. Furthermore, African Americans consistently have higher levels of debt. In a study of African American families, the typical family had debt of 30 percent of its assets, while the debt of the typical White family was 11 percent of its assets.

The process by which this bankruptcy bill has made its way to the Floor of the House frustrates both the notion of democracy and of representative government.

I offered amendments to the bill that included: (1) closing a new loophole that threatens to undermine the comprehensive scheme to compensate victims of nuclear accidents, which Congress enacted long ago in the Price-Anderson Act (PAA); (2) increasing the amount of tuition expenses allowed under the Chapter 7 means test; and (3) precluding the discharge of debt arising out of suits against sex offenses; (4) striking the means test; and (5) supporting an amendment by my colleague Mr. SCHIFF to offer relief to those who are victims of identity theft.

Chairman MEL WATT offered substantive amendments including one that would protect consumers from predatory lending tactics, and another that would seek to protect the credit of college students. Similarly, Representative BOBBY SCOTT offered amendments that included proposals to allow debt to be discharged when bankruptcy is caused by unforeseen medical expenses or by the death of a spouse.

However, the Republican Majority did not accept the amendments, and therefore ignored the issues advocated by my constituents and those of my seventeen Democratic colleagues.

The Republican leadership of the Judiciary Committee passed this measure without consideration of a single amendment that was offered by my Democratic colleagues and me. They effectively shut Democrats out of the markup process and thereby ignored the voices of the people's representatives on this very serious policy matter. When the bill was considered in the Senate, the Majority rejected over 25 Democratic amendments, including one that would have helped debtors to keep their homes if they have been driven into bankruptcy by medical expenses. Clearly, the Majority has priorities that do not protect Americans who are victims of circumstances that have nothing to do with creditworthiness.

Of the amendments that my Democratic colleagues and I plan to offer (for our upcoming consideration) before the House is one that would remove the Chapter 7 'means test'. This would sift out debtors who can afford to repay at least a portion of their debts from those who cannot. Debtors who have income above a ''state median'' would have to plead before a bankruptcy judge.

The egregious provisions of this bankruptcy bill and its name are not unlike many recent bills that have sifted through committee and onto the House Floor. Banks, credit card companies, and retailers have accounted for more than $24.8 million of campaign and partisan contributions since 1999. Commercial banks have given some $76.2 million, according to a study of campaign finance and lobbying disclosure reports and the Center for Responsive Politics. The banking industry has spent $22 million on federal lobbying in the past five years. In fact, according to the New York Times, ''The main lobbying forces for the bill—a coalition that included Visa, MasterCard, the American Bankers Association, MBNA America, Capital One, Citicorp, the Ford Motor Credit Company and the General Motors Acceptance Corporation—spent more than $40 million in political fund-raising efforts and many millions more on lobbying efforts since 1989.''

Clearly, the Republican Majority has shut Democrats out of the process in order to appease these special interest groups—to the detriment of middle-class and elderly Americans.

As an African American, I am troubled by the fact that both African American and Hispanic families, both of whom are over-represented in bankruptcy, would suffer disproportionately if this bill becomes law.

Proponents of this bankruptcy bill suggest that it will put pressure only on the families that have the ability to repay. In fact, the weight of the evidence demonstrates that this legislation will increase the cost of bankruptcy for every family, and decrease the protection of bankruptcy for every family, regardless of income or the cause of financial crisis. The bill contains provisions that will force many honest debtors unnecessarily out of Chapter 7, make Chapter 13 impossible for many of the debtors who file today, protect significant loopholes for wealthy and well-advised debtors, as well as raise the cost of the system for all parties. It will turn the government into a private collection agency for large creditors, and force women trying to collect child support or alimony to compete with credit card companies that will have more of their debts declared non-dischargeable.

The ability to file for bankruptcy relief and to receive a fresh start is a source of hope for a number of American families that suffer the burden of financial problems. What this Administration proposes with this bankruptcy reform bill is an attack upon minorities. It will make it virtually impossible for many families to extricate themselves from a web of high interest debt—and kill the dream of these families to become homeowners.

Mr. Speaker, I reject this legislation not only because it is flawed in and of itself but also because the process by which it is being considered is severely flawed. Americans deserve and have a right to a better process.

Mr. BLUMENAUER. Mr. Speaker, for as long as I've been in Congress I have supported bankruptcy reform on two simple principles; I believe people should pay their debts, if they are able, and that we should end abuses in the system, whether by people who deliberately run up their bills or by businesses who exploit the gullible and the unfortunate.

My first vote in favor of bankruptcy reform was cast with reservations because some of the provisions of the bill seemed unduly harsh, but I had hoped that the legislative process would ultimately improve the product. Unfortunately, for 8 years we have been unable to see the bill move through the legislative process and improve; it appears as though the bill, if anything, is actually less adequate due to increasing predatory lending by credit card companies and skyrocketing medical costs.

One of my deep concerns has been credit card mills, which send out millions of credit cards to people who are not creditworthy. In 2001 there were 5 billion solicitations by credit card companies. Meanwhile, skyrocketing fees have been coupled with reduced minimum payments. Bait-and-switch techniques have been employed that change the terms and raise the interest rates of cardholders who have never missed a payment.

While S. 256 contains overly harsh punishments for middle class Americans that have been preyed upon by the credit card industry, it preserves loopholes for the very rich. S. 256 maintains a homestead exemption that allows people with lots of money to shield their assets by purchasing multimillion dollar homes in certain states. O.J. Simpson was able to shield many of his assets by doing this in Florida. There are even sophisticated trust arrangements that enable people with substantial sums of money to be protected from the provisions of this bankruptcy bill.

There are some simple, common sense changes that could be made to this bill that would make it more fair to all parties involved. The Senate, however, was unwilling to compromise and approve any of these provisions and the House leadership has prevented any of these proposals from even being debated on the floor. Perhaps the most glaring example of the majority's unwillingness to compromise is the rejection of an amendment that would protect soldiers injured in Iraq and Afghanistan from the unfair ''means test'' within this bill.

I have had meetings over the years with individuals who represent all sides of this issue: the bankruptcy trustees, judges, and lawyers who represent the debtors, and the people who extend credit to businesses large and small and to individuals rich and poor. As a result of these meetings, it is clear that the loopholes do remain and that the abuses of lending practices are not being reigned in. The bill provides a mandate for unnecessary and burdensome paperwork and the most extreme requirements, including personal certification of the facts by the attorneys assisting the debtor that are not found anyplace else under any other legal provisions. This is going to shut down programs like the legal clinic at Lewis and Clark law school in Portland and will make it harder for legitimate creditors to be able to get their money back in a timely fashion.

The sad fact is that most bankruptcies are due to large medical bills, family breakup, and job loss. This legislation is going to put an unnecessary burden on the vast majority of unfortunate people and still allow too many of the unscrupulous to avoid their responsibilities. It does not have to be this way. I continue to hope that the political process will respond to these problems with sympathy and concern for the unfortunate. Until that point, I cannot support S. 256 in good conscience.

Mr. KIRK. Mr. Speaker, I am proud to vote in favor of S. 256, The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This important bill brings needed reforms to our nation's bankruptcy system. The legislation reduces the unfair disparity of treatment in the bankruptcy system by establishing more uniform and predictable standards.

I am particularly pleased to note the compromise reached on healthcare and employee benefits. This legislation takes great strides to protect patients' rights, and it encourages debtors and trustees to consider patients' interests when administering healthcare bankruptcy cases. Patients are given a voice through the appointment of an ombudsman, who advocates for the confidentiality of patients' records and ensures patients are transferred to appropriate facilities. These are critical provisions that protect the rights of those with failing health.

I would like to commend a constituent from my district for his contributions to this legislation, Keith J. Shapiro, Esq., of Northbrook, Illinois, and his colleague Nancy A. Peterman, Esq. Mr. Shapiro testified in support of these patient health provisions before the U.S. Senate Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts on June 1, 1998. The passing of this legislation marks the culmination of Mr. Shapiro and Ms. Peterman's tireless efforts to protect patients' interests in bankruptcy cases. On behalf of my colleagues in Congress, I offer my sincere gratitude for their dedication to fair bankruptcy policy.

Mr. HOLT. Mr. Speaker, thank you for allowing me the opportunity to offer my remarks today regarding S. 256, the so-called ''Bankruptcy Abuse Prevention and Consumer Protection Act.'' The issue of bankruptcy reform is extremely important and it is critical that we pass a measure that will both ensure greater personal responsibility of debtors, as well as ensure that credit card companies and other creditors take responsibility for their reckless lending. Unfortunately, this bill does neither. In fact, the bill before us today overly penalizes working families. In fact, the bill before us today takes no action against reckless and predatory lending. This bill will do nothing to reduce the number of bankruptcy filings or address the problem of record-high consumer debt, which now stands at $2 trillion.

As to the substance of the legislation, it is no secret that the number of bankruptcies has risen dramatically over the past few years. In 2001, 1,398,864 people filed for bankruptcy in the United States. According to the Center for American Progress, in 2003 there were a record number of 5.5 personal bankruptcy filings for every 1,000 people living in the United States. In 2003, my own state of New Jersey ranked slightly below the national average at 4.8 filings per every 1,000 residents. This past year, the number of personal bankruptcies had risen to 1,584,170, an increase of over 13 percent. In my own state of New Jersey, citizens have seen a similar increase in bankruptcy filing over the past three years. With those facts in mind, I strongly support the principle of increased personal responsibility of debt.

While there are many problems with S. 256, I'll name just a few of the more egregious provisions to which I strongly object. While the bill purports to elevate the priority of child support payments, in reality credit card companies would receive repayment of debt at the same rate as child support obligations. Children and families will now compete with credit card companies for payment. The bill's homestead-exemption cap does little to address the problem of wealthy debtors shielding their assets from creditors by purchasing million-dollar homes. Sophisticated, wealthy debtors can easily plan ahead and evade the cap. The provision in the bill dealing with ''asset protection trusts'' also does not adequately address the problem of wealthy individuals stashing millions away in trusts that are protected in bankruptcy proceedings. The bill puts the onus on creditors and the court to prove that the debtor was actively trying to avoid creditors by transferring money into the trust. The bill does nothing to protect people who have medical liabilities.

The bill also imposes artificial deadlines and cumbersome new paperwork requirements on small businesses trying to reorganize, and it unnecessarily limits the discretion of bankruptcy judges in crafting the best possible result for small-business debtors and creditors. The rigid and unrealistic requirements will force many viable small businesses to permanently close their doors.

Mr. Speaker, I recognize that there have been, and likely continue to be, abuses of the bankruptcy law, which was designed to be a safety net. As I've said before, I strongly support increased personal responsibility for debt accrued. However, this should coincide with greater responsibility on the part of the creditors. It is the creditors who often shamelessly target college students and low-income individuals with their credit card applications. It is the creditors who subsequently grant these individuals higher levels of credit at high interest rates. It is the creditors who saddle these individuals with insurmountable levels of debt. In fact, it is estimated that the credit card industry mails out five billion unsolicited credit card offers a year.

I believe we would be better served if we could fully debate the merits of this legislation, as well as substantive amendments that were disallowed from consideration by the full House. Sadly, once again, we cannot, and I urge my colleagues to oppose this legislation.

Mr. MORAN of Virginia. Mr. Speaker, the ''Bankruptcy Abuse Prevention and Consumer Act'' is long overdue and with House passage later today, it stands a very real prospect of becoming law. It's been an extremely long road to reform.

I originally supported bankruptcy reform in 1998 with former Representative George Gekas. Ironically, the legislation was drawn from the recommendations of the bipartisan National Bankruptcy Review Commission that was established through legislation passed in 1994 by a Democratic-controlled Congress. It enjoyed the same level of bipartisan support as when it passed the Senate last month.

The main component of the commission's recommendations and the legislation we have here today is to establish a means-based test to determine who should work with creditors on a plan to repay their debts and those who cannot afford to do so. Sometimes a market-based capitalist economy can be unforgiving, but Americans are fair and decent people. We want a system that allows a fresh start to those in financial trouble, but also one that promotes personal responsibility and is not susceptible to fraud and abuse.

The means test in this bill carves out a series of exemptions to steer those who can afford to repay at least part of their debt toward a Chapter 13 repayment plan. This test takes into account exemptions for living expenses, health and disability insurance, expenses to care for an elderly or disabled family member, secured debts, and home energy costs among others. It also recognizes situations where individuals face overwhelming medical costs or other debilitating situations. Under the bill, if an individual can demonstrate ''special circumstances'' that create an overwhelming financial burden, those individuals would not be required to file for Chapter 13. As a final safeguard, those people earning less than their state's median income would automatically be ineligible for Chapter 13.

It is estimated that only a small minority of those already filing for bankruptcy would be affected, perhaps as little as 7 percent. Contrary to some reports, families and individuals facing difficult economic circumstances, people who may have lost their job or family breadwinner or have been devastated by a severe medical condition, will be given a chance to clear their debts and receive a fresh start under this bankruptcy reform legislation.

Back in 1998, I encouraged supporters of the bill to improve its consumer protection provisions. They responded by making child support a priority in a repayment plan, requiring credit counseling prior to filing for bankruptcy, and limiting abuses caused by a few unscrupulous individuals who hide their wealth behind a state's homestead provisions.

At the onset of the 107th Session, I sought and won the House's approval of my pro-consumer amendments that remain a part of today' s bill. These provisions:

Require credit card companies to include a disclosure statement highlighting the number of months necessary to repay a balance if the card holder were to pay only the minimum amount due;

Require credit card companies to inform cardholders on when their low introductory rates expire and new higher rates take effect; and

Prevent deceptive and fraudulent advertising practices by debt relief agencies by making certain that creditors are informed of their rights as debtors.

Could these provisions be perfected? I suspect so. There were several other consumer protections we were unsuccessful in getting included. But perfection should not be an enemy of the good.

Increasingly, bankruptcy has become a tool of first impulse rather than a last option after all other avenues have been exhausted. Last year, 1.6 million consumers filed for bankruptcy, a figure just short of the number of filings in 2003, which represented the most in our nation's history. How is it that during periods of sustained economic growth and prosperity, such as during the Clinton presidency, when all incomes rose, bankruptcies also continued to climb?

S. 256 has been criticized for advancing the interests of the credit card industry on the backs of the poor and the middle class, many of whom are in debt because of circumstances beyond their control. I am sympathetic to this argument, but the flaw is not with this legislation. Those deserving of a fresh start will still be able to do so under this legislation.

The real flaw is with an agenda that the majority continues to advance.

Most families in dire financial straits and filing for bankruptcy will be able to discharge their debts under this legislation. But why are they facing bankruptcy?

One reason is that 41 million Americans are uninsured because the majority party refuses to address this growing crisis.

Another is because 7.3 million Americans live on the minimum wage, more than one-third of whom rely on the $5.15 cents per hour to support their family. They last saw a minimum wage increase in 1997.

It is because during the height of the last recession, the majority party refused to allow any extension of unemployment benefits, because they were too busy falling all over themselves to cut taxes for the wealthiest Americans.

We just passed this week a permanent elimination of the estate tax, helping the wealthiest among us avoid paying any tax on their untaxed earnings, and passed a budget resolution that will cut health care to the indigent.

Mr. Speaker, bankruptcy reform has merit and should become law. It is the majority's overall agenda that is bankrupt and in need of reform.

Mr. CUMMINGS. Mr. Speaker, after eight years of consideration, we are now poised to enact bankruptcy legislation that is deeply flawed. Like so many of the policy priorities pursued by this Congress and the Administration, this bill hurts the most vulnerable among our citizens.

Many of my colleagues have already discussed the terrible provisions that the legislation now before the House would implement. For example, this bill would institute a means test for eligibility to file Chapter 7 bankruptcy that two national commissions have concluded would be counter-productive, difficult to administer, and would yield little revenue to creditors. It would remove critical automatic stay provisions that currently prevent the eviction of those who are seeking to clear arrearages in their rent. S. 256 also would reduce the amount of personal property that those filing for bankruptcy can retain.

The Republican-crafted and credit-industry driven bankruptcy reform bill is inapposite the goals for which bankruptcy was conceived. Bankruptcy is intended to provide a 'fresh start' to those who file—not leave them sinking in financial quicksand.

However, rather than highlight the numerous other misguided provisions of S. 256, I want to look for a moment at the economic policies of which this legislation is just one more disappointing part.

The sponsors of S. 256 claim that the rising number of people filing bankruptcies in our nation is evidence that there is widespread abuse of our current bankruptcy protections. Actually, the rise in bankruptcy filings is a powerful and tragic reminder that our Administration's economic policies are not raising living standards but are instead contributing to the increases in bankruptcy filings. I note that bankruptcy filings actually decreased in 2004.

In the Economic Report of the President delivered to Congress in February of this year,

the Administration wrote that the ''President's policies are designed to foster rising living standards at home, while encouraging other nations to follow our lead.'' The President's policies are not worthy of emulation in other nations—and they are not worthy of continuation in our nation.

Job creation in our nation is failing to keep pace with the growth in the labor force. The Brookings Institution has noted that since the year 2000, there has been a 2 percent decrease in workforce participation among young people aged 25–34, which is unprecedented since World War II.

Slow job creation has also put little pressure on businesses to raise wages. As a result, wages for many low- and middle-income workers are now not keeping pace with consumer prices. Perhaps not surprisingly, the Congressional Research Service found that in 2001, 27 percent of families in the lowest one-fifth of household income distributions had debt obligations that exceeded 40 percent of their incomes.

While workers are not seeing increases in their purchasing power, they are also being left without health insurance to cover their medical expenses. A recent Harvard Study published earlier this year found that nearly half of all bankruptcy filings involve some major medical expense. As recently as 1981, medical expenses accounted for less than 10 percent of bankruptcy filings.

Forty-five million Americans are now uninsured—and countless millions more regularly experience lapses in coverage. More than 38 percent of those who filed bankruptcy for medical reasons were found to have experienced some type of lapse in their insurance coverage during the two years preceding their filing.

In fact, 90 percent of the bankruptcies filed are by those who have been injured, are sick, have been laid off, and/or are going through a divorce. Laid-off workers are the fastest growing group of people filing bankruptcy.

All the while, credit card company abuses are mounting in the form of deceptive marketing practices, irresponsible accounting practices and other predatory practices. Negative amortization by credit card companies require minimum payments so low as to allow debt to increase rather than be reduced. These practices are designed to give the debtor a false sense of financial health while incurring more debt. The result is often inevitable. The minute a tragedy strikes and a debtor falls behind in one payment, debtors are often swarmed upon by all of their credit card companies—who want to collect immediately. This is an unfair result for these debtors and a boon for creditors.

And now, Congress is poised to add insult to uninsured injury by destroying the basic protections that our bankruptcy laws have offered to those most in need.

Mr. Speaker, the increase in personal bankruptcy filings in our nation is not proof that our bankruptcy laws need reform. It is, instead, proof that our economic policies need reform—and need reform urgently.

This bill only serves to disadvantage those honest Americans struggling to make ends meet. I urge my colleagues to oppose S. 256.

Ms. SOLIS. Mr. Speaker, I rise in strong opposition to S. 256, legislation that will make it harder for individuals to eliminate their debts after liquidating most of their assets by filing bankruptcy. Thousands of women and their children are affected by the bankruptcy system each year. This bill will only inflict additional hardship on over a million economically vulnerable women and their families. In fact, women are the fastest growing group to file for bankruptcy. More than 1 million women will find themselves in bankruptcy court this year, outnumbering men by about 150,000. Women who lose a job, have a medical emergency, or go through divorce make up more than 90 percent of the women who file for bankruptcy.

This legislation's means test provision would require even the poorest filers—struggling single mothers, elderly women who are victims of scam artists—to meet complicated filing requirements to access the bankruptcy system. In addition, the bill would make it much harder for women to collect child support payments from men who file for bankruptcy because the bill gives credit card companies, finance companies, auto lenders and other commercial creditors rights to a greater share of the debtor's income during and after bankruptcy. This bill pulls the rug out from under economically vulnerable women and children. It increases the rights of creditors while making it harder for single parents and others facing financial crises.

This harsh bankruptcy reform legislation will not help those families that are struggling to get by. This bill will do nothing to reduce the number of bankruptcy filings or address the problem of record-high consumer debt. It is a gift to the credit card and banking industries; but one that will be paid for by those least able to afford it. Instead of giving a handout to credit card companies, we should ensure that Americans losing their jobs or struggling with medical debt have a second chance for economic security. That is what our bankruptcy laws are intended to provide. This bill is terrible for consumers, working families and women, and I urge my colleagues to vote against it.

Mr. CARDIN. Mr. Speaker, I support equitable reform of our nation's bankruptcy laws.

I recognize that there has been abuse of our bankruptcy system, and that reform is needed. I think we can all agree that those who can afford to should pay their creditors back—that they should be responsible for their debt. Those debtors who charge thousands of dollars on luxury items prior to declaring bankruptcy, should be held accountable. It is contrary to our values as Americans—this idea that some people are able to abandon their debts by gaming the system. Their actions are not fair to the vast majority of Americans who work hard to pay their debts in full, and Congress should act to limit irresponsible use of our bankruptcy system.

I have in the past supported reasonable bankruptcy legislation, and although this bill does contain some good provisions, I regret that I cannot vote for the bill before the House today.

S. 256 would make it more difficult for individuals and families who have suffered bona fide financial misfortune to get a fresh start. It does so by establishing a rigid means test to determine if an individual is eligible for Chapter 7 relief. Regardless of the circumstances that led the individual to seek bankruptcy, the court is not permitted to waive the means test. In other words, ''one strike, you're out.''

I am disappointed that we did not add some reasonable flexibility measures to the ''means test.'' The stated purpose of the bill's means test is to prevent consumers who can afford to repay some of their debts from abusing the system by filing for chapter 7 bankruptcy. It makes sense to require those who are able to repay their debts to do so. However, there are some situations that warrant an exception to the means test.

What are the reasons that individuals seek what we call ''bankruptcy protection?''

Harvard Law School recently researched bankruptcies and found that nine out of ten persons filing bankruptcy have faced job loss, severe health problems, divorce or separation. Illness or medical bills drove nearly half of these filings.

Unfortunately, the bill before us does not offer any relief in these or other tragic circumstances. I voted against the rule because it provides the House no opportunity to vote on amendments that would allow a court to consider extreme circumstances that might have led to bankruptcy filings.

I am disappointed that here in the House, the Judiciary Committee failed to close a popular loophole used by the very wealthy to shield millions of dollars by setting up asset protection trusts. If the majority were truly interested in creating a more fair bankruptcy system for all Americans, this would have been included in the bill.

The Judiciary Committee also failed to rein in some of the practices of credit card companies that are in part responsible for the rise in bankruptcy filings. They refused to provide credit card users with more detailed information to assist them in handling debt. Why not help consumers understand the consequences of their financial decisions, such as making only the minimum payment each month, so that they can avoid some of the missteps that can lead to higher debt?

We do need bankruptcy reform, and I wish that we had an opportunity to address many of these valid concerns.

I want to address the concerns of elderly Americans. The number of senior citizens in bankruptcy tripled from 1992 to 2001, representing the largest increase of any group of Americans. According to the Baltimore City Department of Aging, bankruptcies among elderly city residents have increased by nearly 50 percent over the past year.

Their costs of living are increasing steadily, including their rent, food, and heating costs. Many of them routinely use credit cards to cover their daily expenses. They are not spending frivolously—they are just getting by.

During previous Congresses when this bill was considered, employers were less likely to file for bankruptcy to shed health care and pension obligations to their retirees. More than one million Americans have had their pension plans taken over by the Pension Benefit Guarantee Corporation. From 2003 to 2004 alone, 192 plans were taken over by the PBGC. These retirees have seen their benefits reduced and so they must pay more for health care. But they have not had their debts reduced accordingly. An amendment in the other body that would have required companies that dropped retiree health benefits to reimburse each affected retiree for 18 months of COBRA coverage upon reemerging from bankruptcy was defeated.

Many seniors who do not yet qualify for Medicare or who have prohibitively high copays also pay medical bills and prescription

drug costs with credit cards. Often they skip dosages or forgo care entirely because they cannot afford it. We know the result, which is that many end up with much more severe conditions and many wind up in nursing homes. That translates into greater burdens on our federal and state budgets, and higher costs for us all.

I am disappointed that the victims of identity theft cannot seek relief under this bill. We have just learned that between ChoicePoint and Lexis-Nexis, thousands of individuals have been the victims of identity theft. In the last few years, the Ways and Means Committee has held fifteen hearings on a bill to reduce Social Security Number theft, and last year, we reported out a responsible bipartisan bill, but it was not brought to the floor. This year, I am again an original cosponsor of this bill, but it is not yet law, and so virtually every American remains at great risk for identity theft. Unfortunately, our vote on the previous question—to allow bankruptcy judges to take into consideration the fact that persons are forced into bankruptcy because of identity theft—was defeated.

Mr. Speaker, I want to vote for an equitable bankruptcy reform bill. So many Americans have been driven into bankruptcy not from a desire to game the system, but because of circumstances beyond their control. This legislation fails to adequately protect their legitimate needs. It is because of them that I must vote against this bill.

Mr. CANTOR. Mr. Speaker, we have before us today a bill that provides a safety net for people who have lost a job, had health problems, or served in the military and cannot repay their debts. It gives them the opportunity for a fresh start while continuing to hold accountable those who are able to repay their debts.

Bankruptcy abuse represents a ''hidden tax'' on the American people. When businesses have to raise the cost of their products due to unpaid liabilities, that cost is passed unfairly to all of us.

When people file for bankruptcy and cancel out their debts, small businesses suffer major financial setbacks. Bankruptcy to a small business triggers a change in its bottom line. A smaller bottom line means less money to pay employees, which leads to job cuts—something nobody would like to talk about, and certainly nobody would like to encourage.

This legislation will modernize the system and make it more difficult to hide behind the protections of filing for bankruptcy. With this bill we will lessen the impact of the unpaid debt that is a hindrance to thousands of businesses and hurts our ability to create jobs.

Mr. SHAYS. Mr. Chairman, I rise in support of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act. It is a basic principle of commerce in our country that when a person makes an obligation to pay someone for a good or service, they do so. We ought to address the fact that our nation had over 1.6 million bankruptcy filings last year, and an estimated $44 billion in debts are discharged annually. When creditors are unable to collect money owed to them, we all pay the cost in the form of higher costs, higher interest rates and higher downpayments.

I want to be very clear that this legislation will not prevent those who have incurred oppressive indebtedness from filing. It will apply a means test that weighs whether a debtor has enough disposable income to repay creditors. If, after applying this test, the debtor has little or no disposable income, they will be able to file for straight bankruptcy just as they always have. Those who earn wages and have the ability to repay, however, will be required to file for Chapter 13 bankruptcy, restructure their debt and repay a portion of it.

I have heard from a number of my constituents concerned about high credit card rates, predatory loan practices and identity theft. I share their concern and believe that after passing this legislation today, we must redouble our efforts to pass legislation curbing predatory lending, and we must build on the legislation we passed during the last Congress regarding identity theft.

This is comprehensive legislation and while supporting its passage, this body should pledge strong oversight and the willingness to review its effect on bankruptcy filers and the economy at large.

Mr. HONDA. Mr. Speaker, today, the Republican majority continues its assault on hardworking Americans by ramming through the House of Representatives bankruptcy legislation that harms even the most ethical among us. The legislation before us today is an indefensible gift to the credit card industry, and I urge my colleagues to join me in voting against it.

S. 256, The Bankruptcy Abuse Prevention and Consumer Protection Act, purports to introduce a greater level of personal responsibility into the bankruptcy system by eliminating various loopholes and incentives that encourage consumer bankruptcy filings and abuse. The bill's proponents argue that this kind of abuse is rampant, but expert analyses suggest another story. According to a Harvard study, about 50 percent of all families that file for bankruptcy are forced to do so as a result of medical expenses, and three-quarters of those individuals actually have health insurance. Another 40 percent have been driven into bankruptcy, at least in part, after suffering a job loss, divorce, or death in the family. The American Bankruptcy Institute estimates that no more than three percent of filers avoid repayment of debts by gaming the system. The simple truth is that almost all individuals declaring bankruptcy do so as necessity and a last resort!

Sadly, the mechanisms employed by this bill to crack down on bankruptcy abuse will have a disproportionate impact on women, minority communities, the elderly and the unemployed. It will impose a rigid means test that will make it more difficult for debtors to get a ''fresh start.'' The bill also will endanger child support payments, permit landlords to evict tenants, and frustrate efforts by debtors to save homes and cars. It betrays veterans who accumulate debt following an injury or disability sustained on active duty. In a final insult, the Republican leadership denied the opportunity for Democrats to offer amendments that would have protected veterans and other vulnerable communities.

While the Republican majority wishes to hold the average American accountable, it seeks to preserve privileges and loopholes for the financial industry and the rich. The bill does nothing to reign in credit card companies that engage in reckless lending, and it allows wealthy debtors in five states to declare bankruptcy and keep their multimillion-dollar homes without penalty. Once again, the Republican leadership thwarted amendments that would have evened the playing field for debtors and creditors. Amendments to close loopholes for millionaires, discourage predatory lending, and cap interest on extension of credit were flatly rejected by the Republican majority on the Rules Committee.

Reasonable bankruptcy reform may be necessary, but S. 256 is an abuse of the legislative process and a threat to the financial security of all Americans. I urge my colleagues to oppose S. 256.

Mr. ALLEN. Mr. Speaker, I rise in opposition to S. 256. This bill helps big credit card companies at the expense of working families in crisis.

A Harvard University study reports that more than forty-five percent of all bankruptcies are filed because of a health emergency. Approximately ninety percent of all bankruptcies are due to a health care debt, job loss, or a divorce. When this personal crisis happens, families are driven into crushing credit card debt that they ultimately cannot manage.

Working families are being squeezed by skyrocketing health care costs, gas prices, and housing costs. At the same time, this Republican Congress is reducing the social safety net for working families: Medicaid, Social Security, and now, bankruptcy protections.

Mr. Speaker, I know there are people abusing the bankruptcy code. But There are also companies marketing loans to people who cannot afford them. Credit unions and community banks make responsible loans and do responsible underwriting. But this bill does nothing to make big credit card companies curb their abusive marketing strategies or practice responsible underwriting.

Vote ''no'' on S. 256.

Mr. UDALL of Colorado. Mr. Speaker, I do not support this bill in its present form—and, since the Republican leadership has made it impossible for the House to even consider any amendment, I have no choice but to vote against it.

In recent years, Colorado has been one of the states with the greatest increase in bankruptcy filings. Opinions vary about the causes, but this fact does suggest a need to consider whether the current bankruptcy laws should be revised. So, I am not opposed to any change in the current bankruptcy laws, and in fact I think some of the bill's provisions would make reasonable adjustments in those laws.

But this legislation was first developed years ago and neither its supporters nor the leadership have been willing to give any real consideration to adjusting it to better reflect current conditions.

In particular, I think that the bill should have been amended to more appropriately address the financial problems being encountered by some members of the regular Armed Services as well as by members of the National Guard who have been called to active duty in Iraq or elsewhere.

If the motion to recommit had prevailed, the bill would have been amended to exempt from the means test at least those National Guard and Reservists whose debt resulted from active duty service or was incurred 2 years of returning home from their service. Unfortunately, the motion was not adopted.

For me, this is a very serious matter and the lack of such an amendment is one of the main reasons I cannot support the bill.

Under these circumstances, I am not persuaded that the bill now before us is the right

prescription for Colorado or our country. I think it still needs work—and because of both its shortcomings and the refusal of the leadership to permit consideration of any changes, I cannot support it.

Mr. KIND. Mr. Speaker, I rise today in support of this legislation because the current system needs reform to protect those people truly in need of debt relief, while holding accountable those who can repay their debt.

Bankruptcy filings have risen steadily in recent years, an indication that our current system is an ineffective one that discourages consumers from saving and planning responsibly and ultimately isn't good for consumers, families, or a society that values individual responsibility. I believe bankruptcy should be a last resort—one that allows people who need protection to receive it and people who can repay all or some of their debts to do so. The system in place now gives incentives to people in trouble and encourages them to steamroll headfirst into Chapter 7 liquidation of all their debts, even when they could get back on their feet through a reasonable repayment plan or basic credit counseling.

While S. 256 is not a perfect bill, I do believe it goes great lengths in addressing the growing problem of bankruptcy in this country. I believe there is great misunderstanding about what this bill does and who will be affected. Only those earning above the median income and who have the ability to pay will be required to pay back their debt. However, millionaires who use bankruptcy law as a method of financial planning will no longer be able to buy extravagantly and subsequently have all of their debt written off.

It is also important to note that many families and small businesses will benefit because of changes to this law. Bankruptcy costs are passed on to other consumers, and the average family pays hundreds of dollars each year in higher prices. Additionally, small businesses that might otherwise not be paid for their goods or services will have a better chance of gaining compensation as a result of this bill. A very positive aspect of S. 256 is that it makes permanent Chapter 12 of the bankruptcy code. I, along with other members of Congress, have been working for years to make permanent this much-needed source of relief for our family farmers.

There have been accusations that this bill will be detrimental to the most needy; in fact, there are a great deal of safeguards. S. 256 includes protections ensuring that alimony and child support payments are made. I believe single parents and dependent children need our help far more than millionaires who benefit from current bankruptcy laws. Additionally, families who have exorbitant medical bills they cannot afford can still file for Chapter 7, and judges will still have a great deal of discretion when it comes to the issue of means-testing.

In addition, this legislation will create new disclosure requirements for lending institutions to provide better information to consumers about credit cards and debt. This is particularly important for young adults who are bombarded by credit applications and have limited knowledge about the risks that accompany credit card ownership.

It is important to note that this legislation is only the first step in addressing the bigger problems underlying savings in this country. With an over-reliance on credit cards and a lack of saving for retirement, too many Americans find themselves on shaky financial ground. Addressing this problem must be our next goal, and we must encourage more personal responsibility in consumers.

The Bankruptcy Abuse Prevention and Consumer Protection Act will benefit consumers and provide all Americans with better access to credit. It helps prevent abuse of the system while providing debt protection to those who truly need it. I urge my colleagues to support this legislation.

Ms. KILPATRICK of Michigan. Mr. Speaker, I rise in opposition to S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Action. The title of this bill is a misnomer. It should be titled the ''Corporate Protection and Improved Profitability Act''. If passed, this Act will be a boon for credit card and financial lending institutions and a nightmare for American families who are struggling to stay strong in an economically depressed society. Essentially, the House is contemplating legislation that is more punitive to individuals seeking bankruptcy protection than corporations that resort to filing for bankruptcy.

I also have concerns about House procedures for S. 256. A closed rule was employed, resulting in thirty-five Democratic amendments being rejected from consideration. Debate on an amendment to the bill was prevented. Thirty-five amendments were submitted before the Rules Committee and not one was accepted. Not only were members of the House prevented from engaging in debate but also the American people have been denied the opportunity to hear legitimate debate regarding this Act we are considering today. I am especially distressed about the majority's refusal to accept amendments that related to identify theft and exemptions for disabled veterans whose indebtedness occurs after active duty.

My review of S. 256 compels me to conclude that the framers of the bill failed or refused to recognize that recent economic policies by the current administration have directly contributed to the proliferation of bankruptcy filings by consumers. Burgeoning deficits, perpetual and high unemployment, and the exportation of jobs overseas are just a few of the by-products of failed and poorly conceived government policies that have contributed and continue to contribute to the need for individuals to seek bankruptcy protection.

I also oppose S. 256 because it does absolutely nothing to stem the predatory practices employed by credit card companies, or the abusive fees and penalties imposed on individuals who make just one late payment. Further, the wealthiest citizens in our country are able to insulate their assets by placing them in trusts that are protected in bankruptcy proceedings.

I staunchly oppose S. 256. Democrats were denied the opportunity to offer amendments, the American people have been denied a full opportunity to determine the full implications of the changes in bankruptcy law, and the Act is fundamentally anticonsumer.

Mr. Speaker, my conscience dictates that I oppose S. 256. I encourage my House colleague to vote No on the Bankruptcy Abuse Prevention and Consumer Protection Act.

Mrs. DAVIS California. Mr. Speaker, I rise to voice my opposition to the bankruptcy reform legislation before us today.

Unfortunately, there are individuals who abuse the credit system and use it for their own gain.

This is wrong and we should be working to stop those who take advantage of the bankruptcy laws.

However, I worry S. 256 will hurt the thousands of Americans who have absolutely no choice but to file bankruptcy as a last resort.

Specifically, I am concerned about the impact on our brave service members and our military families.

The numerous activations and extended tours of duty in Iraq and Afghanistan are causing our military families to face debt and serious financial strain.

Studies show that the incomes of military, families decrease significantly when the service member is deployed.

Four out of 10 Reservists, for example, take a drop in pay once they are deployed overseas.

I have met with military families in San Diego who are facing the realities and the financial strain that come with activation.

I worry about the military spouse whose husband is activated to serve in Iraq for a year and must leave his job or his business.

Somehow, we expect the spouse to care her children, to make the house payment, and to pay the bills on an income that is significantly lower.

Some military families will have no choice but to file for bankruptcy because of the environment we have created for them.

The bankruptcy reform bill before us today does not address the needs of our military families and the realities they are facing.

S. 256 will make it harder for military families to recover from a bankruptcy because of the additional costs and the stricter requirements.

The Senate did include provisions exempting military personnel serving in combat from certain provisions of the bill.

But, unfortunately, the financial impact of an extended deployment could remain long after the service member returns home to his family.

S. 256 does not recognize this reality and does not consider the difficult circumstances facing military families today.

I am against passing legislation only adding to the enormous burden we are already placing on those defending the United States and the families sending a loved one into harm's way.

I urge my colleagues to vote against the Bankruptcy Abuse Prevention and Consumer Protection Act.

Mr. UDALL of New Mexico. Mr. Speaker, thank you for allowing me the opportunity to offer my remarks today regarding S. 256, the so-called ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.'' The issue of bankruptcy reform is extremely important and it is critical that we pass a measure that will ensure greater personal responsibility of debtors, as well as ensure that credit card companies and other creditors take responsibility for their irresponsible lending. Unfortunately, this bill does neither. In fact, this bill overly penalizes working families and takes no action against reckless and predatory lending.

Mr. Speaker, in addition to my reservations about the legislation, I also strongly object to the rule under which S. 256 is being debated. The majority has, once again, passed a rule that stifles debate and blocks serious and substantive amendments. There were more than 30 thoughtful amendments brought before the

Rules Committee, yet they did not allow a single one to be brought before the full House. These amendments would have addressed the impact that this bill would have on groups such as disabled veterans returning from Iraq, single parents, families experiencing a catastrophic medical event, and people who are victims of identity theft. This continued smothering of the democratic process by the majority is shameful and must stop.

As to the substance of the legislation, it is no secret that the number of bankruptcies has risen considerably in the past twenty years. In 1980, there were 330,000 bankruptcies in the United States. In 2003, that number rose to over 1.66 million. The number of filings has dropped 3.8 percent in 2004 down to 1.59 million. Though this is headed in the right direction, I understand that more has to be done. S. 256, however, is not the answer.

S. 256 is full of provisions that I adamantly oppose. It imposes a rigid means test, endangers child support, and allows millionaires to continue to shelter their assets in mansions. These provisions result in an unbalanced and punitive measure that will have a devastating effect on women, the unemployed, and the elderly. Reform in this bill is skewed toward restricting the consumer's access to relief from overwhelming debt, while making it easier on those creditors who encourage additional unwise borrowing.

S. 256 fails to find a middle ground between lenders and borrowers. While it is critical that individuals begin taking greater responsibility for their debt, so too must the credit card industry take greater responsibility for shamelessly targeting individuals with their credit card applications. It is these creditors who subsequently grant these individuals higher levels of credit at high interest rates. It is the creditors who saddle these individuals with insurmountable levels of debt. S. 256 does nothing to help break this vicious cycle.

I would like to reiterate that I strongly support the principle of increased personal responsibility for debt, but I believe this bill does more harm than good. I believe we would be better served if we could fully debate the merits of this legislation, as well as substantive amendments that were disallowed from consideration by the full House. Unfortunately, once again, we cannot, and I urge my colleagues to oppose this legislation.

Mr. SMITH of Texas. Mr. Speaker, it's time for Congress to enact meaningful bankruptcy reform. Unless we take action, people will continue to abuse the system by filing for bankruptcy as an easy out. When people avoid their debts, someone still has to pay. Companies absorb the cost of unpaid debts by passing along these costs to consumers.

Over a million people file for bankruptcy each year. Many of these filings are legitimate attempts by debtors to pay their debts and obtain a fresh start. However, bankruptcy is too often used as a way to avoid responsibilities.

Unnecessary bankruptcy filings continue to increase at dramatic rates. Often, individuals go on spending sprees for luxury goods and services just before filing for bankruptcy, knowing that they can wipe the slate clean and avoid paying for what they bought.

This is bad for consumers and bad for our economy. When individuals avoid their debts when they could be paid off, the costs are passed on to America's businesses and consumers. We must ensure that debtors actually belong in bankruptcy and are not using the system to avoid their obligations.

This bill stops abuse by eliminating incentives in the current bankruptcy system that actually encourage consumer bankruptcy filings and abuse. It requires those who can repay their debts to do so. It also gives courts greater power to dismiss frivolous or abusive bankruptcy filings and punish lawyers who encourage these filings.

This bill also contains provisions I support to address those who abuse state homestead laws and attempt to shelter their wealth in multi-million dollar mansions. It requires a debtor to own their homestead for at least 40 months before he or she can use state exemption law. And, if a debtor has committed an intentional tort, a criminal act, or violated securities laws, their homestead exemption will be capped at $125,000. These provisions will close the loophole that currently allows debtors to abuse the homestead provision.

This legislation will encourage personal responsibility, protect consumers, and ensure that bankruptcy is used only as a last resort and is not abused by those who can afford to repay their debts.

Mr. WELDON of Florida. Mr. Speaker, for years, honest but unfortunate consumers have had the ability to plead their case to come under bankruptcy protection and have their reasonable and valid debts discharged. The way the system is supposed to work, the bankruptcy court evaluates various factors including income, assets and debt to determine what debts can be paid and how consumers can get back on their feet. The bill before us preserves that right for those individuals who simply get in over their heads and have no other way out

Unfortunately, some dishonest individuals have taken advantage of our bankruptcy laws by hiding assets, racking up debt in anticipation of filing for bankruptcy, using bankruptcy as a financial planning tool, and walking away from that which they owe. This hurts our economy because it forces retailers and businesses to simply raise the prices of goods and services for honest Americans. All Americans end up paying the costs for those who have gamed the bankruptcy laws.

I support S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. I am a cosponsor of the House version of this bill. This common sense legislation preserves the right to file bankruptcy for those who truly cannot repay their debts while ensuring that those who do have the ability to repay a portion of their debts do so.

S. 256 provides the same kinds of bankruptcy reforms the House has approved twice before. It restores the principles of fairness and personal responsibility to our bankruptcy system and protects the rights of consumers. S. 256 also requires creditors to help prevent credit card abuse through new disclosures and educational provisions.

This is a good bill for average American consumers, for American businesses, and our economy as a whole.

Mrs. BIGGERT. Mr. Speaker, it is with great pleasure that I rise today to express my strong support for The Bankruptcy Abuse Prevention and Consumer Protection Act.

A Chinese proverb says: "Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime." And that's exactly what this bill before us today will do.

There are many reasons to support this Bankruptcy Reform Bill, but I want to focus on one that is important to many of my colleagues, to me and to the American people. We should support the bill because it contains important financial literacy provisions. Financial literacy goes hand-in-hand with helping our citizens of all ages and walks of life to negotiate the complex world of personal finance. Financial literacy can help Americans avoid or survive bankruptcy.

We have passed many laws that require the disclosure of the terms and conditions of the rich mix of financial products and services that are available to consumers.

Unfortunately, for too many Americans, knowing the terms and conditions of financial products and services is challenging enough. However, understanding those terms and conditions is often an even greater challenge. Recognizing this fact, Congress included provisions in the Fair and Accurate Credit Transactions Act to address the issue of financial literacy.

The Bankruptcy Abuse Prevention and Consumer Protection Act, S. 256, also contains important provisions addressing economic education and financial literacy. These provisions are designed to ensure that those who enter the bankruptcy system will learn the skills to more effectively manage their money in an increasingly complicated marketplace.

Before the House considers S. 256, I want to highlight, for my colleagues, some of the bill's important financial literacy provisions:

First: the bill will facilitate educating future generations. It expresses the "Sense of the Congress" that personal finance curricula be developed for elementary and secondary education programs. If we teach our children, early-on, how to manage money, credit, and debt, they can become responsible workers, and heads of households and keep their parents out of bankruptcy court.

Second: the bill will provide for pre-filing credit counseling. It requires debtors, prior to filing for bankruptcy, to receive credit counseling from a nonprofit counseling agency. The counseling must include a budget analysis and disclosures regarding the possible impact of bankruptcy on a debtor's credit report.

Next: the bill will provide for pre-discharge financial education, requiring debtors to complete an approved instructional course on personal financial management prior to receiving a discharge under Chapter 7 or 13.

The bill will also include important exceptions. It authorizes phone and Internet counseling for both the pre-filing and pre-discharge education requirements to assist debtors in rural and remote areas. In addition, either or both requirements may be waived if services are not available or in exigent circumstances.

Finally, the bill requires the Director of the Executive Office for U.S. Trustees to: (1) develop a financial management training curriculum and materials to educate individual debtors on how to better manage their finances; and (2) evaluate and report to the Congress on the curriculum's efficacy. This will ensure that Congress can evaluate the effectiveness of these financial literacy provisions in the long-term.

Last week, we passed House Resolution 148, a bill that supports the goals and ideals of Financial Literacy Month, which is this

month, April 2005. H. Res. 148 was co-sponsored by 82 Members of this body and 409 Members of this body voted for it.

Mr. Speaker, the number of bankruptcies remains at a historic high—over 1.6 million bankruptcy cases were filed in federal courts in 2004. With that in mind and in the spirit of Financial Literacy Month, I urge my colleagues to pass S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act, which contains important financial literacy provisions that will provide Americans with the skills needed to successfully navigate the world of personal finance.

Mr. Speaker, let's help our fellow citizens avoid bankruptcy altogether. "Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime." Vote for S. 256.

Mr. CASTLE. Mr. Speaker, I am submitting for the RECORD the following remarks from Mr. Arkadi Kuhlmann, CEO of ING DIRECT, in opposition to the bankruptcy reform legislation under consideration. I remain a strong supporter of S. 256; however, I believe Mr. Kuhlmann's statement should be made part of the RECORD.

STATEMENT OF ARKADI KUHLMANN, CEO, ING DIRECT

Mr. Speaker, I am Arkadi Kuhlmann, CEO of ING DIRECT, a federally chartered thrift headquartered in Wilmington, Delaware. ING DIRECT launched in the U.S. in September 2000 to challenge traditional banking by touting the high interest, no fee and no minimum Orange Savings Account as its signature product, with a brand vision to lead Americans back to saving.

ING DIRECT has since expanded its product line to include the Orange Mortgage, the Orange Home Equity Line of Credit, Orange CDs and the Orange Investment Account. With over 2.5 million customers and more than $43 billion in assets, ING DIRECT is the fourth largest thrift in the U.S.

The House is now considering consumer bankruptcy legislation that would make major changes to how consumers' debts and obligations are treated in the bankruptcy process. Thank you for this opportunity to submit testimony for the record on this legislation.

Despite the many important and positive changes this bill would make to our bankruptcy laws, this proposal remains seriously flawed. One significant oversight is the bill's failure to consider one of the biggest problems we face in business today: identity theft.

The Washington Post ran a story recently about a woman whose identity was stolen, yet her credit card company forced the fraudster's debt on her by using the arbitration clause in her card agreement.

The Bankruptcy Bill must address the possibility that identity theft could lead to financial devastation through no fault of the person's own. In addition to overlooking the problem of identity theft, this proposal had additional shortcomings. It actually encourages further bad lending decisions by removing an important market discipline—the possibility of a clean bankruptcy.

Without important changes, millions of consumers, who might otherwise be savers, will be encouraged into debt by aggressive credit card and other lending. We believe it is crucial that a serious study of the connection between credit card marketing and personal bankruptcy be completed. The bill as drafted requires such a study. We challenge the Congress to take a very hard look at the results of the study and consider further legislation, if necessary.

Another important issue is the Bill's creation of a ''means test.'' By giving disparate treatment to secured versus unsecured debt, the law would treat secured creditors even more favorably than under current rules. We believe the means test should be applied across the board or not at all.

We at ING DIRECT believe this country is still willing to give working Americans—the engine of our economy—a second chance when debt overwhelms them. This bill seriously limits that second chance.

Thank you for the opportunity to present our views.

Mr. FARR. Mr. Speaker I rise in strong opposition to the misnamed "Bankruptcy Abuse Prevention and Consumer Protection Act," (S. 256). Current bankruptcy law needs some adjustment, but this bill is not the solution. It hurts middle-class consumers in a variety of ways: the bill would allow landlords to evict battered women without bankruptcy court approval, even if the eviction poses a threat to the women's physical well-being; and, it permits credit card companies to reclaim common households goods which are of little value to them, but very important to the debtor's family.

It is very important to note that the bill does absolutely nothing to discourage abusive underage lending, nothing to discourage reckless lending to the developmentally disabled and nothing to crack down on unscrupulous payday lenders that prey on members of the armed forces.

Last year nearly one and a half million middle class individuals filed for bankruptcy. Their average income was less than $25,000 and the principal causes for their filings were layoffs, health problems and divorce. In my judgment, it is a grave mistake to punish these individuals while rewarding credit card companies and business lobbyists at a time when corporate greed has already destroyed the lives of millions of American workers. I will support a balanced bankruptcy reform bill, but S. 256 is in no way balanced and I believe does more harm than good, therefore I strongly oppose this bill.

Mr. GENE GREEN of Texas. Mr Speaker, I rise today in opposition to this bill.

This bill will weaken homestead protections currently in place under state laws, hurting my constituents, the citizens of Texas, and the citizens of any other states that have laws protecting individuals' homes valued over $125,000, which is the limit this bill sets.

Texas, which has the longest and oldest history of homestead protection laws in our country, has no cap on homestead protection, along with Kansas, Iowa, Florida, and South Dakota.

Minnesota, Rhode Island, and Nevada's laws protect home equity of $200,000.

Property values across the nation vary widely. The median resale price of a home in California is $215,000. In Nebraska it's $70,200.

While I understand there must be a sensible cap on exemptible home equity to ensure the law is not protecting million dollar mansions, $125,000 is unreasonable given the skyrocketing price of real estate in Texas and many other parts of the country.

This bill will make bankruptcy even more expensive and burdensome than it already is, on hardworking Americans who have fallen on hard times and seniors on fixed incomes, while doing nothing to address the out of control lending practices by credit card companies.

Mr. Speaker, I cannot support a bill that will hurt hard-working Texans, and I oppose this bill.

Mr. LEVIN. Mr. Speaker, I rise in opposition to the bankruptcy bill before the House.

This legislation has two fundamental flaws. The first problem is that the bill does not distinguish between those individuals who abuse their credit and then seek to wipe the slate clean through Chapter 7, and those who enter bankruptcy as the result of a costly medical emergency or after one of the breadwinners in a family loses their job. We need to make a distinction between a family who is struggling to pay for a medical operation for a child and a person who maxes out their credit cards on a shopping spree at the mall. This bill does not do so.

A recent Harvard University study underscores the fact that the bankruptcy bill's impact will extend well beyond cracking down on people who abuse credit. The study looked at 1771 bankruptcy filers in five states. The results were striking: Half of the people in the study said that illness or medical bills drove them into bankruptcy. Most of these people actually had some health insurance; but high co-payments, deductibles, exclusions from coverages left them liable for thousands of dollars in out-of-pocket costs when serious illness struck. Other people in the study suddenly lost their jobs and therefore their health insurance. In many cases, people were let go from their jobs soon after the onset of a debilitating illness, so the medical bills begin to arrive just as the insurance and paychecks disappear.

The second fundamental problem left unaddressed by the bill is the credit card industry's role in the surge of bankruptcy filings in recent years. The industry hands out credit cards like popcorn, and then loads on extraordinary penalty fees and higher interest rates after a payment is late. The result is that even if someone wants to pay off their credit debts, they are unable to do so because of thousands of dollars of punitive fees and penalty interest rates that can run as high as 40 percent. The lending policies of the credit card companies themselves is a major factor in driving consumers into bankruptcy, yet the legislation before the House does nothing to end these abuses.

I include with my statement an article from the March 6 edition of the Washington Post entitled, "Credit Card Penalties, Fees Bury Debtors; Senate Nears Action on Bankruptcy Curbs."

[From the Washington Post, Mar. 6, 2005]

CREDIT CARD PENALTIES, FEES BURY DEBTORS; SENATE NEARS ACTION ON BANKRUPTCY CURBS

(By Kathleen Day and Caroline E. Mayer)

For more than two years, special-education teacher Fatemeh Hosseini worked a second job to keep up with the $2,000 in monthly payments she collectively sent to five banks to try to pay $25,000 in credit card debt.

Even though she had not used the cards to buy anything more, her debt had nearly doubled to $49,574 by the time the Sunnyvale, Calif., resident filed for bankruptcy last June. That is because Hosseini's payments sometimes were tardy, triggering late fees ranging from $25 to $50 and doubling interest rates to nearly 30 percent. When the additional costs pushed her balance over her credit limit, the credit card companies added more penalties.

''I was really trying hard to make minimum payments,'' said Hosseini, whose financial problems began in the late 1990s when her husband left her and their three children. ''All of my salary was going to the credit card companies, but there was no change in the balances because of that interest and those penalties.''

Punitive charges—penalty fees and sharply higher interest rates after a payment is late—compound the problems of many financially strapped consumers, sometimes making it impossible for them to dig their way out of debt and pushing them into bankruptcy.

The Senate is to vote as soon as this week on a bill that would make it harder for individuals to wipe out debt through bankruptcy. The Senate last week voted down several amendments intended to curb excessive fees and other practices that critics of the industry say are abusive. House leaders say they will act soon after that, and President Bush has said he supports the bill.

Bankruptcy experts say that too often, by the time an individual has filed for bankruptcy or is hauled into court by creditors, he or she has repaid an amount equal to their original credit card debt plus double-digit interest, but still owes hundreds or thousands of dollars because of penalties.

''How is it that the person who wants to do right ends up so worse off?'' Cleveland Municipal Judge Robert J. Triozzi said last fall when he ruled against Discover in the company's breach-of-contract suit against another struggling credit cardholder, Ruth M. Owens.

Owens tried for six years to pay off a $1,900 balance on her Discover card, sending the credit company a total of $3,492 in monthly payments from 1997 to 2003. Yet her balance grew to $5,564.28, even though, like Hosseini, she never used the card to buy anything more. Of that total, over-limit penalty fees alone were $1,158.

Triozzi denied Discover's claim, calling its attempt to collect more money from Owens ''unconscionable.''

The bankruptcy measure now being debated in Congress has been sought for nearly eight years by the credit card industry. Twice in that time, versions of it have passed both the House and Senate. Once, President Bill Clinton refused to sign it, saying it was unfair, and once the House reversed its vote after Democrats attached an amendment that would prevent individuals such as anti-abortion protesters from using bankruptcy as a shield against court-imposed fines.

Credit card companies and most congressional Republicans say current law needs to be changed to prevent abuse and make more people repay at least part of their debt. Consumer-advocacy groups and many Democrats say people who seek bankruptcy protection do so mostly because they have fallen on hard times through illness, divorce or job loss. They also argue that current law has strong provisions that judges can use to weed out those who abuse the system.

Opponents also argue that the legislation is unfair because it ignores loopholes that would allow rich debtors to shield millions of dollars during bankruptcy through expensive homes and complex trusts, while ignoring the need for more disclosure to cardholders about rates and fees and curbs on what they say is irresponsible behavior by the credit card industry. The Republican majority, along with a few Democrats, has voted down dozens of proposed amendments to the bill, including one that would make it easier for the elderly to protect their homes in bankruptcy and another that would require credit card companies to tell customers how much extra interest they would pay over time by making only minimum payments.

No one knows how many consumers get caught in the spiral of ''negative amortization,'' which is what regulators call it when a consumer makes payments but balances continue to grow because of penalty costs. The problem is widespread enough to worry federal bank regulators, who say nearly all major credit card issuers engage in the practice.

Two years ago regulators adopted a policy that will require credit card companies to set monthly minimum payments high enough to cover penalties and interest and lower some of the customer's original debt, known as principal, so that if a consumer makes no new charges and makes monthly minimum payments, his or her balance will begin to decline.

Banks agreed to the new rules after, in the words of one top federal regulator, ''some arm-twisting.'' But bank executives persuaded regulators to allow the higher minimum payments to be phased in over several years, through 2006, arguing that many customers are so much in debt that even slight increases too soon could push many into financial disaster.

Credit card companies declined to comment on specific cases or customers for this article, but banking industry officials, speaking generally, said there is a good reason for the fees they charge.

''It's to encourage people to pay their bills the way they said they would in their contract, to encourage good financial management,'' said Nessa Feddis, senior federal counsel for the American Bankers Association. ''There has to be some onus on the cardholder, some responsibility to manage their finances.''

High fees ''may be extreme cases, but they are not the trend, not the norm,'' Feddis said.

''Banks are pretty flexible,'' she said. ''If you are a good customer and have an occasional mishap, they'll waive the fees, because there's so much competition and it's too easy to go someplace else.'' Banks are also willing to work out settlements with people in financial difficulty, she said, because ''there are still a lot of options even for people who've been in trouble.''

Many bankruptcy lawyers disagree. James S.K. ''Ike'' Shulman, Hosseini's lawyer, said credit card companies hounded her and did not live up to several promises to work with her to cut mounting fees.

Regulators say it is appropriate for lenders to charge higher-risk debtors a higher interest rate, but that negative amortization and other practices go too far, posing risks to the banking system by threatening borrowers' ability to repay their debts and by being unfair to individuals.

U.S. Bankruptcy Judge David H. Adams of Norfolk, who is also the president of the National Conference of Bankruptcy Judges, said many debtors who get in over their heads ''are spending money, buying things they shouldn't be buying.'' Even so, he said, ''once you add all these fees on, the amount of principal being paid is negligible. The fees and interest and other charges are so high, they may never be able to pay it off.''

Judges say there is little they can do by the time cases get to bankruptcy court. Under the law, ''the credit card company is legally entitled to collect every dollar without a distinction'' whether the balance is from fees, interest or principal, said retired U.S. bankruptcy judge Ronald Barliant, who presided in Chicago. The only question for the courts is whether the debt is accurate, judges and lawyers say.

John Rao, staff attorney of the National Consumer Law Center, one of many consumer groups fighting the bankruptcy bill, says the plight consumers face was illustrated last year in a bankruptcy case filed in Northern Virginia.

Manassas resident Josephine McCarthy's Providian Visa bill increased to $5,357 from $4,888 in two years, even though McCarthy has used the card for only $218.16 in purchases and has made monthly payments totaling $3,058. Those payments, noted U.S. Bankruptcy Judge Stephen S. Mitchell in Alexandria, all went to ''pay finance charges (at a whopping 29.99%), late charges, over-limit fees, bad check fees and phone payment fees.'' Mitchell allowed the claim ''because the debtor admitted owing it.'' McCarthy, through her lawyer, declined to be interviewed.

Alan Elias, a Providian Financial Corp. spokesman, said: ''When consumers sign up for a credit card, they should understand that it's a loan, no different than their mortgage payment or their car payment, and it needs to be repaid. And just like a mortgage payment and a car payment, if you are late you are assessed a fee.'' The 29.99 percent interest rate, he said, is the default rate charged to consumers ''who don't meet their obligation to pay their bills on time'' and is clearly disclosed on account applications.

Feddis, of the banker's association, said the nature of debt means that interest will often end up being more than the original principal. ''Anytime you have a loan that's going to extend for any period of time, the interest is going to accumulate. Look at a 30-year-mortgage. The interest is much, much more than the principal.''

Samuel J. Gerdano, executive director of the American Bankruptcy Institute, a nonpartisan research group, said that focusing on late fees is ''refusing to look at the elephant in the room, and that's the massive levels of consumer debt which is not being paid. People are living right up to the edge,'' failing to save so when they lose a second job or overtime, face medical expense or their family breaks up, they have no money to cope.

''Late fees aren't the cause of debt,'' he said.

Credit card use continues to grow, with an average of 6.3 bank credit cards and 6.3 store credit cards for every household, according to Cardweb.com Inc., which monitors the industry. Fifteen years ago, the averages were 3.4 bank credit cards and 4.1 retail credit cards per household.

Despite, or perhaps because of, the large increase in cards, there is a ''fee feeding frenzy,'' among credit card issuers, said Robert McKinley, Cardweb's president and chief executive. ''The whole mentality has really changed over the last several years,'' with the industry imposing fees and increasing interest rates if a single payment is late.

Penalty interest rates usually are about 30 percent, with some as high as 40 percent, while late fees now often are $39 a month, and over-limit fees, about $35, McKinley said. ''If you drag that out for a year, it could be very damaging,'' he said. ''Late and over-limit fees alone can easily rack up $900 in fees, and a 30 percent interest rate on a $3,000 balance can add another $1,000, so you could go from $2,000 to $5,000 in just one year if you fail to make payments.''

According to R.K. Hammer Investment Bankers, a California credit card consulting firm, banks collected $14.8 billion in penalty fees last year, or 10.9 percent of revenue, up from $10.7 billion, or 9 percent of revenue, in 2002, the first year the firm began to track penalty fees.

The way the fees are now imposed, ''people would be better off if they stopped paying'' once they get in over their heads, said T. Bentley Leonard, a North Carolina bankruptcy attorney. Once you stop paying, creditors write off the debt and sell it to a

debt collector. ''They may harass you, but your balance doesn't keep rising. That's the irony.''

Mr. LANGEVIN. Today I rise in support of the Pomeroy substitute to H.R. 8, the Estate Tax Repeal Permanency act, and in opposition to the underlying bill. As the son of a small business owner, I know firsthand the tax burden placed on entrepreneurs and working families, and I support efforts to responsibly protect small business owners.

The Pomeroy substitute provides needed relief by eliminating estate taxes for assets totaling $3.5 million per individual or $7 million per married couple. Increasing the exemption to this level would mean that 99.7 percent of all estates will not pay a single penny of the estate tax. Small businesses and farm owners should not be penalized for their success, nor should they need to worry about their ability to pass the family business on to future generations, and the substitute addresses these concerns.

H.R. 8 goes far beyond providing fair tax relief to small businesses and family farms. While the benefits overwhelmingly go to the wealthiest 0.3 percent of estates, Republican leaders fail to mention that their proposal actually raises taxes on thousands of estates, including those not previously affected by the estate tax. This is because their legislation increases capital gain taxes owed on inherited property. The Department of Agriculture estimates that this change will raise taxes on more farms than would benefit from repealing the tax.

The Republicans' call for repealing the estate tax comes at a time when our government is already in fiscal crisis. Ending the estate tax will reduce revenues by $290 billion over ten years, and by 2021, this legislation will have added a total of more than $1 trillion to our debt. With a $400 billion deficit projected this year, now is not the time to add trillions in debt to the tab that future generations must pay. These added costs also come as the President proposes to privatize Social Security at a cost of up to $6 trillion. In addition, the House recently passed a budget that cuts $20 billion from Medicare and underfunds critical priorities including veterans' health care and homeland security. We must work to meet our existing obligations rather than cutting taxes for the wealthiest 0.3 percent of families in America.

Based on Internal Revenue Service data for 2004, out of approximately 10,000 deaths in my home state, only 312 Rhode Island decedents filed estate tax returns. This number would be much lower with the $3.5 million exemption under the Pomeroy substitute. Under our Democratic alternative, most small business owners and family farmers would receive estate tax relief.

I urge my colleagues to join me in supporting permanent reform of the estate tax, but not irresponsibly repealing it. Our small business owners are in need of relief, and we must provide it without leaving future generations to pay the bill.

Mr. ROYCE. Mr. Speaker, today, Congress has the opportunity to finish the task of preventing corporate malfeasance by agreeing to pass S. 256.

Included in this bill is a sensible provision that sharply limits to $125,000 the homestead exemption that many CEOs and corporate officers have used to shield their assets from creditors after they plunder their shareholders' wealth.

By empowering the government to go after the ill-gotten gains that crooked corporate officers tie up in offshore mansions, shareholders and pensioners who have been swindled can have their hard-earned savings returned to them.

In addition, this bill prohibits people convicted of felonies like securities fraud from claiming an unlimited exemption when filing for bankruptcy, protecting taxpayers from having to bear the cost of corporate malfeasance.

It also guards against fraud and abuse by requiring that high-income debtors who have the ability repay a significant portion of their debts do so, preventing them from sticking responsible borrowers with their tab. It accomplishes all of this while preserving the ability of people who truly need to discharge their debts to do so.

For far too long, Americans who work hard and pay their bills have been held accountable for the debts incurred by those who irresponsibly file for bankruptcy.

This long-overdue legislation will reform the critically-flawed bankruptcy process, and prevent affluent filers from gaming the system and passing on their bad debt to hard-working families while preserving the ability of people who truly need to discharge their debt through bankruptcy to do so.

Bankruptcy should be preserved as a last resort for those who truly need the protections that the bankruptcy system has to offer—not a tool for those who could pay their debts but choose to discharge them instead.

By agreeing to this legislation, Congress will make the existing bankruptcy system a needs-based one and correct the flaw in the current system that encourages people to file for bankruptcy and walk away from debts, regardless of whether they are able to repay any portion of what they owe; and it does this while protecting those who truly need protection.

I commend my colleagues for their hard work on this legislation, and I strongly urge my colleagues to vote in favor of this report and help honest taxpayers by closing the loopholes in the current bankruptcy system.

Mr. MACK. Mr. Speaker, I rise today in support of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

I came to Congress to promote the ideals of freedom, security and prosperity. Embodied within these principles is the duty of the American people to take responsibility for their actions—including control of one's personal finances and investments—without undue influence from the federal government.

Under current law, bankruptcy protection has increasingly become a first stop rather than a last resort. Our credit markets have been undermined on a daily basis because of the abuse of the existing laws. All too often, people run to the shelter of bankruptcy to escape the consequences of their actions, all to the detriment of the rest of society. That is fundamentally wrong.

Mr. Speaker, the Bankruptcy Abuse Prevention and Consumer Protection Act reforms existing bankruptcy law to stem the rise in bankruptcy abuse while maintaining its protections for those who really need them. The act places compassionate, coherent, and common-sense reforms on the current system. It ensures that frivolous costs are no longer unfairly passed on to American families.

Mr. Speaker, as a supporter of the Bankruptcy Abuse Prevention and Consumer Protection Act, I encourage my colleagues to vote for this well-balanced measure that will protect those individuals who need a fresh start while cracking down on abuse of the system.

Mr. CASTLE. Mr. Speaker, I rise today in strong support of S. 256, the ''Bankruptcy Abuse and Consumer Prevention Act of 2005.''

It has been seven years since we made our first attempt to reform the bankruptcy system in the 105th Congress and thanks to the tireless efforts of Chairman SENSENBRENNER's Committee, we can see a real chance for passing a full and comprehensive bill this year.

Mr. Speaker, we have seen a sharp increase in bankruptcies over the past 25 years. In 2003, consumer filings peaked at over 1.6 million filings—a 465 percent increase from 1980. Those who believe credit card companies, mortgage lenders and other financial institutions are bearing the costs of consumer's filing for bankruptcy don't understand how business works. American families are paying the price for this debt—some studies reflect $400 per year in every household—by higher interest rates on their credit cards, auto loans, school loans and mortgages. When the legislation before us passes today it will be the American families that are the real winners.

This legislation balances the consumer's challenge of debt repayment with the needs of businesses to collect money rightfully owed to them. In an effort to better educate consumers and improve financial literacy, the legislation requires many filers of bankruptcy to attend financial counseling. This change, coupled with Congressional encouragement for schools to incorporate personal finance curricula in elementary and secondary education programs, are both useful methods of curbing future debt. As Chairman of the Education Reform Subcommittee, which has jurisdiction over all K–12 programs, I feel strongly that educating future spenders can prevent debts incurred as adults.

I also support the new requirement for lending institutions, which will now have to take additional steps to ensure consumers fully understand the ramifications of credit spending. Credit card billing statements will now reflect the actual time it would take to repay a full balance at a specified interest rate; contain warnings to alert consumers that paying only the minimum will increase the amount of interest; and list a toll-free number for consumer's to call for an estimate of the time it would take to repay the balance if only the minimum is paid. With these steps, lending institutions can improve their chances of repayment while proactively educating consumers of true costs associated with borrowing.

I believe the ''Bankruptcy Abuse and Consumer Protection Act'' reflects fair solutions to minimizing spending abuse, while protecting those with genuine hardship. Relief is still available for low and moderate income families. However, this legislation will end the protection for those who make obvious attempts to abuse their credit. Those who are able to pay their debts—will now be held to those commitments—through means testing. A means test would be used to determine a debtor's eligibility for Chapter 7 bankruptcy relief, where the majority of debt is excused, or Chapter 13, where a significant portion of debt

must be repaid. Importantly, disabled veterans would be exempt from the means test if their debts occurred primarily as a result of being called to active duty or for homeland defense operations.

Lastly, Mr. Speaker, this legislation also includes four additional judges for Delaware's bankruptcy court. This increase is long overdue, as the bankruptcy caseloads in Delaware continue to exceed other districts' caseloads for Chapter 11 businesses cases. Last year alone, weighted filings for Delaware judges were 11,789, while the national average was 1,763—in other words, the Delaware caseload was 10 times the national average. The Delaware District tends to have the largest Chapter 11 business cases, often referred to as the "mega" Chapter 11 cases which are "those involving extremely large assets, unusual public interest, a high level of creditor involvement, complex debt, a significant amount of related litigation, or a combination of such factors." These are complex cases in which the judicial system in Delaware has built a high level of expertise as well as a sound reputation for fair practices. I am pleased the legislation before us today takes a solid step towards alleviating Delaware's heavily burdened bankruptcy court system.

Again, Mr. Speaker, I want to thank Chairman SENSENBRENNER for his years of strong and tenacious support for this legislation and thank him for not giving up on these important, common-sense changes to our bankruptcy system. I urge my colleagues to support this bipartisan legislation.

Mr. TERRY. Mr. Speaker, in pertinent part, section 202 of S. 256, the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005," amends section 524 of the Bankruptcy Code by making the discharge injunction inapplicable to certain acts by a creditor having a claim secured by a lien on real property that is the debtor's principal residence, so long as the creditor satisfies certain criteria. First, the creditor's act must be in the ordinary course of business between the creditor and debtor. Second, such act is limited to seeking periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.

Section 202 was included because Congress recognized that there are many consumer debtors who, despite filing bankruptcy, desire to repay secured obligations in order to retain their principal residences. Under current law, however, some secured creditors stop sending monthly billing statements or payment coupons for fear of violating the discharge injunction. Section 202 is intended to reassure these secured creditors that if consumer debtors want to continue making voluntary payments so they can keep their principal residences, then secured creditors may take appropriate steps to facilitate such payment arrangements, such as continuing to send monthly billing statements or payment coupons.

Moreover, despite the express reference in this provision to liens on real property, section 202 should not, by negative inference or implication, be construed as limiting any rights that may have developed through existing case law, or otherwise, that permit secured creditors to send, or consumer debtors to request and receive, monthly billing statements or payment coupons for claims secured by real or personal property. See, e.g., Ramirez v. GMAC (In re Ramirez), 280 B.R. 253 (C.D. Cal. 2002); Henry v. Associates Home Equity Services, Inc (In re Henry), 266 B.R. 457 (Bankr. C.D. Cal. 2002).

Mr. KOLBE. Mr. Speaker, after eight years of intense Congressional scrutiny and debate, this long-overdue legislation is now close to becoming law. I will vote in favor of this legislation, just as I have supported similar bills in the past, and I encourage my colleagues to pass S. 256 without amendments so it can go directly to the President for his signature.

Without a doubt, bankruptcy reform is needed. Under current law, it is far too easy for debtors with significant cash resources to declare bankruptcy and walk away from their debts, even when they have the ability to pay a substantial portion of those debts. Bankruptcies cost the rest of us American taxpayers billions of dollars each year. Why? Because commercial institutions have to pass their losses on to everyone else in the form of higher prices and higher interest rates. The Bankruptcy Abuse Prevention and Consumer Protection Act is a well-balanced measure that will permit people with real financial need to get a fresh start, but lessen the burden placed on other working Americans who now must support people who are taking advantage of the system.

This bankruptcy reform bill will force those who have the ability to repay their debts to do so. At the same time, it provides safeguards such as child and spousal protections, debtor education, and mandatory credit counseling before someone files for bankruptcy. The bill also makes common-sense revisions to homestead exemptions to reduce the ability of a wealthy individual shielding his money in an extravagant home just prior to filing bankruptcy.

Put simply, this legislation helps restore the fundamental concept of personal responsibility in the bankruptcy system. I urge my colleagues to adopt.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PUTNAM). All time for debate has expired.

Pursuant to House Resolution 211, the bill is considered read for amendment, and the previous question is ordered.

The question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. SCHAKOWSKY. Yes.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

Ms. SCHAKOWSKY moves to recommit the bill (S. 256) to the Committee on the Judiciary, with instructions to report the bill back to the House forthwith, with the following amendment:

Page 14, after line 6, insert the following:

"(E) Subparagraphs (A) through (C) shall not apply, and the court may not dismiss or convert a case filed under this chapter based on any form of means testing—

"(i)(I) while the debtor is on, and during the 2-year period beginning immediately after the debtor is released from, active duty (as defined in section 101(d)(1) of title 10); or

"(II) while the debtor is performing, and during the 2-year period beginning immediately after the debtor is no longer performing, a homeland defense activity (as defined in section 901(1) of title 32); and

"(ii) if—

"(I) after September 11, 2001, the debtor was called to active duty or to perform a homeland defense activity; and

"(II) a substantial portion of the debts arose on or after September 11, 2001 and resulted from the debtor's service on active duty or the debtor's performance of a homeland defense activity.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Ms. SCHAKOWSKY) is recognized for 5 minutes in support of her motion.

Ms. SCHAKOWSKY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise today with the gentleman from Ohio (Mr. STRICKLAND) to offer this motion on behalf of our brave citizen soldiers who are risking their lives for us and then, as a thank you, risking their homes and their businesses, too. Our motion simply shields financially distressed National Guard and Reservists from the means test found in S. 256 while they are in service and for the 2 years after they have transitioned back to civilian life if a substantial portion of their debt is due to their service.

This motion is a narrow protection for those who suffer financial hardship, financial disaster, as a direct result of serving our country. It builds on Senator DURBIN's amendment to the Senate bankruptcy bill which exempts from the bill's means test disabled veterans if their debts were incurred primarily when they were on active duty or performing homeland defense duties.

Regardless of Members' position on the overall bill, we owe it to those who risk their lives and their livelihoods to prevent financial catastrophe caused by their service. This motion is the least we can do to ease their pain.

According to the National Guard, 4 out of 10 members of the guard and reserve forces lose income when they leave their civilian jobs for active duty. Many left for the war thinking they would be deployed for 6 months and have ended up staying for a year or even longer and may be shipped out again. There is no reasonable way they could have financially anticipated and prepared for those extensions of their service. Their families struggle to pay the bills. Some face the reality of losing their homes, as this cartoon depicts: Tie a yellow ribbon around the old oak tree, and for some of those returning from Iraq, it is a foreclosure sign around their house.

Many Guard and Reservists are self-employed or run small businesses and face the daunting task of reestablishing their businesses after their release from active duties. The 2 years after they return from service are the

most difficult, and we owe it to them to provide a safe harbor from the means test.

Since 9/11, approximately 470,000 Guard and Reservists have been called to active duty, tens of thousands more than once. Some of these patriotic Americans are facing financial crisis not because they are exploiting loopholes in the bankruptcy law, they are not scheming to avoid paying their debts, they are in a financial hole their country dug for them.

Some will argue we do not need this motion because our solders are already covered by the Servicemembers' Civil Relief Act, but that is not true. Even with that minimal help, many are forced to file for bankruptcy and the relief act provides no assistance once they file. It is hard enough under current law for them to pick up the pieces. The special circumstances and sacrifices of Guard and Reserve forces require that we not make recovery even harder for them. Soldiering is not their livelihood, but they take it on. They leave their day-to-day lives and jobs behind because their country asks them to do so. Exemption from the means test is the least we can do to tell our citizen soldiers and their families not only do we appreciate the physical and emotional risks they have taken, we recognize their financial risk.

To do any less than this simple, narrow protection would be morally bankrupt.

DISABLED AMERICAN VETERANS,
Washington, DC, April 1, 2005.

Hon. JOHN CONYERS, Jr.,
Ranking Minority Member, House Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE CONYERS: The Disabled American Veterans (DAV) is a nonprofit organization of more than one million veterans disabled during time of war or armed conflict. The DAV is the official voice of our nation's service-connected disabled veterans, their families, and survivors.

On behalf of the DAV, I ask you please keep in mind the sacrifices of the brave men and women of our Armed Forces as you consider S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Returning service members often experience financial difficulties during their transition back to civilian life. They should be afforded protections to ensure that the already significant burdens upon military members and their families are not compounded by unintended consequences from this bill. Specifically, disabled veterans who incur debt during the initial 24 months following completion of active duty should not be subject to the bankruptcy means test. Such heroic citizens deserve the utmost consideration with regard to bankruptcy laws.

Thank you for your consideration. I look forward to continuing to work with you to ensure better lives for America's service-connected disabled veterans and their families.

Sincerely,

JOSEPH A. VIOLANTE,
National Legislative Director.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. STRICKLAND), a champion for our service men and women.

Mr. STRICKLAND. Mr. Speaker, I support this motion to recommit because it provides added financial protections for veterans, military personnel and their families who are enduring financial hardships as a direct result of serving this country.

Additionally, this motion to recommit offers help to members of the Reserves and National Guard who all too often must leave behind their family jobs and businesses. It provides protection not just during service but also for the 2 years after service when our veterans make the transition back to civilian life. This measure will guarantee what the Servicemembers Relief Act does not. It will provide exemptions from the means test, financial assistance and time, something our servicemembers selflessly give to the Nation and something we should give to them.

The Servicemembers Civil Relief Act does not provide substantial bankruptcy protections. Rather, it provides a simple, temporary 90-day delay in bankruptcy proceedings once a servicemember is released from active duty.

□ 1500

Let us be clear. No bankruptcy safe harbor or exemption exists for our citizen soldiers under the Servicemembers Civil Relief Act currently. This motion is not an attempt to kill the bill. It is simply a reaction to a real problem that has been highlighted in countless news stories, by the National Military Families Association, Disabled Veterans of America, and individual servicemembers. These are people experiencing real and difficult financial situations. I support this motion to provide this narrow protection for those men and women who have served our country, and I urge my colleagues to do the same.

I thank my dear colleague for her efforts in this behalf.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. PUTNAM). The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, the motion to recommit creates a blanket exemption from the bill's needs-based test, and I do not think that that is necessary because it would exempt a wealthy debtor from the needs-based test solely based on the debtor's military service. People who fall behind the lines of the needs-based test will continue to have bankruptcy protection under chapter 7 as is provided in the current law. The bill also contains an exception from the needs-based test for disabled veterans who incurred indebtedness while on active duty.

CRS and even the New York Times recognized that the Servicemembers Civil Relief Act of 2003 provides a broad spectrum of protection to servicemembers, their spouses and their dependents; and the revised statute, according to the New York Times, is clearer and more protective than the old one. The Times also recognized that the news was apparently slow in reaching those who would have to interpret and enforce the law, which apparently includes the people who are offering this motion to recommit.

Let me summarize. Already there is in law, signed by President Bush in 2003, we have responded to the special financial burdens that members of the military may encounter. CRS has said the Servicemembers Civil Relief Act provides protection for servicemembers in the event their military service impedes their ability to meet financial obligations incurred before their entry into active military service, as well as during that service. There is a cap on the interest rates of 6 percent. It clarifies that the balance of interest for the period of the servicemember's military service is to be forgiven by the lender.

There are protections against evictions from rental property or foreclosures on mortgaged property. There are restrictions on cancellation of life insurance and more flexible options to allow servicemembers on active duty to terminate residential and automobile leases.

We do not need this motion to recommit. Congress has already passed a law that provides those types of protections. The motion to recommit should be defeated, and the bill should be passed.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. SCHAKOWSKY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 200, nays 229, not voting 6, as follows:

[Roll No. 107]

YEAS—200

Abercrombie	Boren	Clay
Ackerman	Boswell	Cleaver
Allen	Boyd	Clyburn
Andrews	Brady (PA)	Conyers
Baca	Brown (OH)	Cooper
Baird	Brown, Corrine	Costa
Baldwin	Butterfield	Costello
Barrow	Capps	Cramer
Bean	Capuano	Crowley
Becerra	Cardin	Cuellar
Berman	Cardoza	Cummings
Berry	Carnahan	Davis (AL)
Bishop (GA)	Carson	Davis (CA)
Bishop (NY)	Case	Davis (FL)
Blumenauer	Chandler	Davis (IL)

Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—229

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

Berkley
Gillmor
Gutierrez
LaHood
Solis
Weldon (FL)

□ 1529

Messrs. TURNER, TANCREDO, CRENSHAW, and BRADLEY of New Hampshire changed their vote from ''yea'' to ''nay.''

Ms. EDDIE BERNICE JOHNSON of Texas and Messrs. RUSH, BOREN, and JOHNSON of Illinois changed their vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 107 on motion to recommit with instructions (S. 256) I was unavoidably detained. Had I been present, I would have voted ''yea.''

The SPEAKER pro tempore (Mr. PUTNAM). The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 302, nays 126, not voting 7, as follows:

[Roll No. 108]

YEAS—302

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Coble
Cole (OK)
Conaway
Cooper
Costa
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Israel
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Portman
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Sodrel
Souder
Spratt
Stearns
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—126

Abercrombie
Ackerman
Allen
Baldwin
Barrow
Becerra
Berman
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Clay
Clyburn
Conyers
Costello
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle

Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Green, Gene
Grijalva
Hastings (FL)
Hinchey
Holt
Honda
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kucinich
Langevin
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Millender-McDonald
Miller (NC)
Miller, George
Moore (WI)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Rangel
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Stark
Stupak
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—7

Berkley
Gillmor
Gutierrez
LaHood
Lantos
Solis
Weldon (FL)

□ 1539

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 108 on final passage (S. 256) I was unavoidably detained. Had I been present, I would have voted "nay."

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING H.R. 6, ENERGY POLICY ACT OF 2005

Mr. DREIER. Mr. Speaker, I know that our colleagues, the gentleman from Maryland (Mr. HOYER) and the gentleman from Texas (Mr. DELAY), will be engaged in a colloquy in just a moment; and the announcement that I have will, I believe, relate to the colloquy that they are about to engage in.

Mr. Speaker, the Committee on Rules may meet next week to grant a rule which could limit the amendment process for floor consideration of the Energy Policy Act of 2005, which is expected to be introduced Monday, April 18, as H.R. 6. Any Member wishing to offer an amendment should submit 55 copies of the amendment, one written copy of a brief explanation of the amendment, and one electronic copy of the same to the Committee on Rules up in H–312 of the Capitol by 12 noon on Tuesday, April 19, 2005.

Members are advised that the combined text from the committees of jurisdiction should be available for their review on the committees' Web sites as well as on the Committee on Rules Web site by tomorrow, Friday, April 15. Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to talk with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House.

Mr. Speaker, I would like to say, Go Nationals.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I take this time for the purpose of inquiring of the majority leader the schedule for the coming week.

Mr. Speaker, I yield to the distinguished majority leader, the gentleman from Texas (Mr. DELAY).

Mr. DELAY. I thank the distinguished whip for yielding to me.

Mr. Speaker, the House will convene on Tuesday at 2 p.m. for legislative business. We will consider several measures under the suspension of the rules. A final list of those bills will be sent to the Members' offices by the end of the week. Any votes called on these measures will be rolled until 6:30 p.m.

On Wednesday and Thursday, the House will convene at 10 a.m. for legislative business. We will likely consider additional legislation under the suspension of the rules, as well as H.R. 6, the Energy Policy Act of 2005.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for informing us of that schedule.

Mr. Leader, tomorrow is a day on which the conference report on the budget is supposed to be adopted, as you well know. However, the House is yet to appoint conferees. When might we appoint conferees, given the fact that we are already behind schedule?

Mr. DELAY. Mr. Speaker, if the gentleman will yield further, obviously we would have liked to have met the statutory deadline of April 15, but, unfortunately, we will not. I am advised that the Speaker has not yet decided when he would like to appoint the conferees to meet with the Senate, but it could occur as early as next week.

Hopefully, within the next few weeks we will have a conference report for the House to consider that provides for the extension of the pro-growth tax policies enacted in 2001 and 2003, reduces non-security discretionary spending, and provides for important reforms of entitlement programs.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman. Obviously he articulates reasons that he believes this bill is an important piece of legislation.

In light of the fact that the Speaker has not yet decided who he wants to appoint as conferees, does the gentleman have any thought as to when we might contemplate having the conference committee meet and then, of course, the conference report on the floor? I ask that from two perspectives: one, as the representative of the party who would like to know what is going on, as I am sure the gentleman would as well; and, secondly as an appropriator.

As the gentleman knows, until the conference committee report is adopted, it has the appropriations committees somewhat in limbo as it relates to allocations to the committees and then allowing us to make the 302(b) allocations.

Mr. Speaker, I yield further to my friend in terms of what expectations he might have as to timing from this point to when we might adopt a budget, in light of the fact it is my understanding from the staff of the gentleman from California (Mr. LEWIS) that there is hope that we will start to mark up bills sometime in mid-May. I do not know whether the majority leader has the same understanding or not.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman continuing to yield. The gentleman has touched on many points. I am advised, and I stand to be corrected, but having served on the Committee on Appropriations, the rules allow that once we pass the April 15 deadline for having a budget, the Committee on Appropriations is allowed to start their work without a budget.

I am advised also by the gentleman from California (Chairman LEWIS) of the Committee on Appropriations, who is walking in front of me right now and hopefully will correct me if I am wrong, that the gentleman from California (Chairman LEWIS) has begun the appropriations process in earnest and he has a very ambitious schedule. In fact, I am told that we will have the opportunity to schedule appropriations bills for the floor by the middle of May, and I anticipate, not anticipate, we have set as a schedule, another way of putting it, we have turned over the schedule to the Committee on Appropriations to get their work done. It will be a very ambitious appropriations schedule starting the middle of May.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I would be pleased to yield to my friend, the gentleman from California, the distinguished chairman of the Committee on Appropriations.

□ 1545

Mr. LEWIS of California. Mr. Speaker, I appreciate my Appropriations colleague yielding me a moment just to say that my colleague, the gentleman from Wisconsin (Mr. OBEY), and I have spent a lot of time together discussing these questions and the schedule and otherwise. The relationship is extremely positive, and I believe he and I this week, before the week is out, will have a chance to sit down and talk about 302(b)s, for example. We are going to move forward very expeditiously, and I think it will benefit, one more time, my colleague and I, who are Appropriations members together, and it will benefit our committee greatly.