the best opportunity to make the decisions that affect their children. I believe in that strongly. I think most on this side of the aisle do.

There was a long discussion about education today. Education is important to all Members. I think also there was an interesting set of polling done which indicated that for the most part, people do want to make the decisions at the local level, to make the decisions where the kids are, to make the decisions where the families are.

There is quite a difference between what needs to be done in Jugwater, WY, or Philadelphia. So the one-size-fits-all kind of program does not fit. We want to have the flexibility to make the changes that are necessary to do that.

Unfortunately, our bills will go to the President. The President has, of course, vowed to veto the tax relief bill that we have sent. I do not believe there will be much opportunity to negotiate the basis for that. That is too bad. As we project, there will be excesses. We think they ought to go back to the taxpayers. In fact, the President wants to spend more money, indeed, increase some taxes—for instance, 55 cents on cigarettes that would be there to offset more spending.

So these are the kinds of things with which we must deal. We must do that soon. I believe we are headed in the right direction to have the budget that does reflect our needs, that does deal with patients' health care. We passed a bill. We will do that and we will move forward and complete our work by the end of September.

Mr. President, I think we have taken nearly all of our time. I yield the remainder of our time and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GREGG). The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

BANKRUPTCY REFORM ACT OF 1999

The PRESIDING OFFICER. The time between now and 5:30 is equally divided between the Senator from Utah and the Senator from New Jersey.

Mr. HATCH. Mr. President, this bill is a bipartisan bill, drafted jointly by Senators GRASSLEY and TORRICELLI. This legislation has been developed in a fair and inclusive manner.

The reforms proposed in this bill have been carefully studied and have been deliberated upon at length. Indeed, Congress has been engaged in the consideration of this issue now for several years. The National Bankruptcy Review Commission spent two years comprehensively examining the bankruptcy system. The findings and opinions of the Commission, which were reported to Congress, have proved helpful in identifying the problems in the bankruptcy system and in finding appropriate solutions.

Furthermore, the Subcommittee on Administrative Oversight and the Courts, which is chaired by Senator GRASSLEY, has held numerous hearings on the issue of bankruptcy reform. The subcommittee heard extensive testimony on the subject from dozens of witnesses. Again, I would like to thank Senators GRASSLEY and TORRICELLI for their leadership in this important consumer bankruptcy reform, and also last session's ranking member of the Administrative Oversight and the Courts Subcommittee, Senator DURBIN, along with other members of the Senate, for their hard work on this issue.

Throughout the process of consideration of this bill, at both the subcommittee and full committee level, changes suggested by the minority were included in the bill. During this entire process, I have expressed my willingness to work to address any remaining concerns the minority has about the bill. It is apparent, however, that efforts are underway to defeat this important legislation by attaching irrelevant, extraneous ''political agenda'' items to it, such as minimum wage, guns, abortion and tobacco, to name a few.

I am open to full debate on relevant issues. Nevertheless, some of my friends on the other side of the aisle continue to tie up consideration of this bill for what appears to be political points.

Despite the efforts of those in opposition, I remain hopeful and optimistic that we will be able to pass legislation this year that provides meaningful and much-needed reform to the bankruptcy system.

The House of Representatives passed a much more stringent bankruptcy reform bill by an overwhelming bipartisan majority earlier this spring. The time has come for us to rise above politics and to do what is right for the American people. It is time for meaningful and fair bankruptcy reform.

I urge my colleagues to vote for cloture so we may consider the substance of this important legislation and make our bankruptcy system better for all Americans.

The Bankruptcy Reform Act of 1999 closes many of the loopholes in our bankruptcy system that allow unscrupulous individuals to use bankruptcy as a financial planning tool rather than as a last resort.

Despite the White House's statement of opposition to the House's bankruptcy reform bill, H.R. 833, the House of Representatives realized that the time has come to restore personal responsibility to our nation's bankruptcy system. House Democrats and Republicans alike recognized that if we do not take the opportunity to reform our broken system, every family in my own State of Utah and throughout the country, many of whom struggle to make ends meet, will continue to bear the financial burden of those who take advantage of the system. As a result, the House bill passed by an overwhelming margin of 313 to 108. Half of the House Democratic Caucus joined with every House Republican to support the bill. And notably, the House bankruptcy reform bill is more stringent in its reforms than the Senate bill before us today.

More than three decades ago, the late Albert Gore, Sr., then a Senator, commented on the moral consequences of a lax bankruptcy system. He said:

> I realize that we cannot legislate morals, but we, as responsible legislators, must bear the responsibility of writing laws which discourage immorality and encourage morality; which encourage honesty and discourage deadbeating; which make the path of the social malingerer and shirker sufficiently unpleasant to persuade him at least to investigate the way of the honest man. (Cong. Rec. 905, January 19, 1965.)

I too believe that the complete forgiveness of debt should be reserved for those who truly cannot repay their debts. S. 625 provides us with the opportunity to prevent people who can repay their debts from ''gaming the system'' by using loopholes that are presently in place.

Mr. President, S. 625 provides a needs-based means test approach to bankruptcy, under which debtors who can repay some of their debts are required to do so. It contains new measures to protect against fraud in bankruptcy, such as a requirement that debtors supply income tax returns and pay stubs, audits of bankruptcy cases, and limits on repeat bankruptcy filings. It eliminates a number of loopholes, such as the one that allows debtors to transfer their interest in real property to others who then file for bankruptcy relief and invoke the automatic stay. And, the bill puts some controls on the ability of debtors to get large cash advances on their credit cards and to buy luxury goods on the eve of filing for bankruptcy.

At the same time, the Senate bill provides many unprecedented new consumer protections. It imposes penalties upon creditors who refuse to negotiate in good faith with debtors prior to declaring bankruptcy. Also, it imposes penalties on creditors who willfully fail to properly credit payments made by the debtor in a chapter 13 plan, and for creditors who threaten to file motions in order to coerce a reaffirmation without justification. Moreover, the bill imposes new measures to discourage abusive reaffirmation practices.

Mr. President, S. 625 addresses the problem of bankruptcy mills, firms that aggressively promote bankruptcy as a financial planning tool, and often end up hurting unwitting debtors by putting them in bankruptcy when it may not be in their best interest. The bill also imposes penalties on bankruptcy petition preparers who mislead debtors.

Importantly, the bill makes major strides in trying to break the cycle of indebtedness. It educates debtors with

regard to the alternatives available to them, sets up a financial management education pilot program for debtors, and requires credit counseling for debtors. I must commend Senator SESSIONS for his leadership on these important credit counseling provisions.

I am proud that the bill also makes extensive reform to the bankruptcy laws in order to protect our children. I have authored provisions of the bill to ensure that bankruptcy cannot be used by deadbeat dads to avoid paying child support and alimony obligation. Under my provisions, the obligation to pay child support and alimony is moved to a first priority status, as opposed to its current place at seventh in line, behind attorneys fees and other special interests. My measures also ensure the collection of child support and alimony payments by, among other things, exempting state child support collection authorities from the ''automatic stay'' that otherwise prevents collection of debts after a debtor files for bankruptcy, and by exempting from discharge virtually all obligations one ex-spouse owes another. A new amendment will make changes to a number of provisions in the bill to clarify that the provisions are not intended, directly or indirectly, to undermine the collection of child-support or alimony payments.

The bill includes a provision that I offered, which was accepted in the Judiciary Committee, which creates new legal protections for a large class of retirement savings in bankruptcy, a measure which is supported by groups ranging from the AARP, to the Small Business Council of America and the National Council on Teacher Retirement.

Rampant bankruptcy filings are a big problem. In 1998, 1.4 million Americans filed for bankruptcy. That was more Americans than graduated from college, were on active military duty, or worked in the post office. Indeed, more people filed for bankruptcy in 1998 than lived in the states of Alaska, Delaware, Hawaii, Idaho, Maine, Montana, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, or Wyoming.

Last year, about $45 billion in consumer debt was erased in personal bankruptcies. Let me give this number some context. Forty-five billion dollars is enough to fund the entire U.S. Department of Transportation for a year. Losses of this magnitude are passed on the American families at an estimated cost—if we use low estimates—of $400 to every household in America every year. That $400 could buy every American family of four: five weeks worth of groceries, 20 tanks of unleaded gasoline, 10 pairs of shoes for the average grade-school child, or more than a year's supply of disposable diapers.

Under current law, families who do not file for bankruptcy are unfairly having to subsidize those who do. Currently, our bankruptcy system is devoid of personal responsibility and is spiraling out of control. This is our opportunity to do something about it.

As noted scholars Todd Zewicky of George Mason Law School and James White of the University of Michigan Law School recently wrote:

> Current law requires a case-by-case investigation that turns on little more than the personal predilections of the judge. This chaotic system mocks the rule of law, and has resulted in unfairness and inequality for debtors and creditors alike. The arbitrary nature of the process has also undermined public confidence in the fairness and efficiency of the consumer bankruptcy system.

I am proud to be proposing several enhancements to the bill that primarily are designed to protect consumers and further provide incentives for consumers to take personal responsibility in dealing with debt management.

In the area of domestic support, as I indicated earlier, Senator TORRICELLI and I intend to build upon the new legal protections we created, as part of the underlying bill, for ex-spouses and children who are owed child support and alimony payments. The changes will further strengthen the ability of ex-spouses and children to collect the payments they are owed, and will make changes to a number of existing provisions in the bill to clarify that they will not directly or indirectly undermine the collection of child support or alimony payments.

In the area of education, Senator DODD and I, along with Senator GREGG, have developed an amendment that will protect from creditors contributions made for education expenses to education IRAs and qualified state tuition savings programs. This is a significant protection for those who honestly put money away for the benefit of their children and grandchildren's educational expenses. The potential that education savings accounts will be abused in bankruptcy is addressed by the amendment's requirement that only contributions made more than a year prior to bankruptcy are protected. I believe that protecting educational savings accounts is particularly important because college savings accounts encourage families to save for college, thereby increasing access to higher education. Nationwide, there are more than a million educational savings accounts, meaning there are more than a million children who would benefit from this amendment. As much as I believe that the bankruptcy laws need to be reformed to prevent abuse and to ensure debtors take personal responsibility, the ability to use dedicated funds to pay the educational costs of children should not be jeopardized by the bankruptcy of their parents or grandparents.

I have also developed a debt counseling incentive provision, which builds on the credit counseling provisions currently in S. 625. It removes any disincentive for debtors to use credit counseling services by prohibiting credit counseling services from reporting to credit reporting agencies that an individual has received debt management or credit counseling, and establishes a penalty for credit counseling services that do. Debt management education is vital to reducing the number of Americans who, because of poor financial planning skills, are forced to declare bankruptcy. Providing crediting counseling—instruction regarding personal financial management—to current and potential filers will help curb bankruptcy filing.

In addition, I intend to offer an amendment that is designed to curb fraud in filing. This amendment puts in place new procedures and provides new resources to enhance enforcement of bankruptcy fraud laws. It will require No. 1 that bankruptcy courts develop procedures for referring suspected fraud to the FBI and the U.S. attorney's office for investigation and prosecution and No. 2 that the Attorney General designate one assistant U.S. attorney and one FBI agent in each judicial district as having primary responsibility for investigating and prosecuting fraud in bankruptcy.

I also plan to offer an amendment that will allow a victim of a crime of violence or drug trafficking offense or another party in interest to petition the bankruptcy court to dismiss a petition voluntarily filed by a debtor who was convicted of the crime of violence or drug trafficking offense. In order to protect women and children who may be owed payments by such a debtor, however, the amendment would still allow the bankruptcy petition to continue if the debtor can show that the filing of the petition is necessary to ensure his ability to meet domestic support obligations. Bankruptcy is not an entitlement—it is a process by which certain qualifying individuals with substantial debts may cancel their debts and obtain a ''fresh start.'' Under this amendment, violent criminals and drug traffickers—individuals who have chosen to engage in serious, criminal conduct—would be precluded from availing themselves of the benefits of bankruptcy protection.

Again, I thank Senator GRASSLEY, the distinguished chairman of the Judiciary Committee's Subcommittee on Administrative Oversight and the Courts, for his leadership and dedication to this effort, and look forward to working with him and the subcommittee's ranking member, Senator TORRICELLI, in passing this legislation.

Let's look at a couple of other charts. This one is done by Penn, Schoen and Bergland Associates, Inc.: 83 percent of the American people favor an income test in bankruptcy reform. Only 10 percent oppose it and 7 percent don't know. So we should have an income test in bankruptcy reform.

Americans agree that bankruptcy should be based on need. Ten percent believe an individual who files for bankruptcy should be able to wipe out all their debt regardless of their ability to repay that debt. Only 10 percent of our society believe that, and I am surprised that many people believe that. If somebody has the ability to pay a debt,

why should they stiff other people with their debts and why shouldn't they have to live up to paying off their debts?

Four percent refused to answer this. But 87 percent believe an individual who files for bankruptcy—all of this yellow—should be required to repay as much of their debt as they are able and then be allowed to wipe out the rest.

That makes sense. Otherwise, we have people who are using the bankruptcy laws as an estate planning device. We have people who every 5 years file for bankruptcy after running up all kinds of bills and enjoying the life of Riley during those intervening years. What we want to do is have people realize there are some disincentives for doing that and that they have to pay some of these bills themselves.

These particular charts show that the American people have their heads screwed on right, except for about 10 percent of them. If an individual has the ability to repay some of the debt, they ought to be able to and they ought to want to, they ought to do what is right, and 87 percent of the American people believe that is the case. Only 10 percent believe they should be able to wipe out any debts at any time by going into bankruptcy.

I hope we can get people to vote for cloture on this matter so we can proceed and so we will not have any further delay in passing what really will be one of the most important bills in this particular session of Congress.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. HATCH. Mr. President, I suggest the absence of a quorum and ask that the time be divided equally.

The PRESIDING OFFICER. Time will be charged to both sides. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I will speak briefly in opposition to cutting off debate on S. 625, the Bankruptcy Reform Act of 1999. I say to my colleagues, the entire concept of the bill is wrong. It addresses a ''crisis'' that appears to be self-correcting. It rewards the predatory and reckless lending by banks and credit card companies which fed the crisis in the first place, and it does nothing to actually prevent bankruptcy by promoting economic security for working families.

To support, if you will, my case on the floor, I will talk about a couple of amendments I intended to offer to this bill which I think will make a huge difference. Let me give a couple of examples.

One amendment will prevent claims in bankruptcy on high-cost credit transactions in which the annual interest rate exceeds 100 percent, such as pay-day loans and car title pawns. Payday loans are intended to extend small amounts of credit, typically $100 to $500, for an extremely short period of time, usually 1 week or 2 weeks.

These loans are marketed as giving the borrower a little extra until pay day, hence the term ''pay-day'' loan. The loans work like this:

The borrower writes a check for the loan amount plus a fee. The lender agrees to hold the check until an agreed-upon date and gives the borrower the cash. On the due date, the lender either cashes the check or allows the borrower to extend the loan by writing a new check for the loan. In any case, the annual interest rate can get as high as 391 percent.

We ought to do something about that, Mr. President. I have an amendment that will make a difference. I believe I would win if I offered this amendment to address this problem.

Another amendment I want to offer is about making sure banks offer low-cost banking services to their customers. For about 12 million Americans, having a checking account is a simple convenience which they cannot afford. Why? Because quite often there is a large minimum or you have fees that are really too high, and therefore people cannot even have these accounts. I want to make sure these banks are responsive to low-income citizens as well.

Mr. President, I was on the floor last week for several hours talking about the crisis in agriculture. I said that those of us from the farm States want an opportunity to pass legislation that would change the course of policy and prevent our family farmers from being driven off the land and prevent, really, what is right now the devastation of our rural communities.

The minority leader, Senator DASCHLE, has an amendment to get the loan rate up, to get prices up, which I support. I have an amendment—and Senator DORGAN will join me—which basically says we are going to—for 18 months, until we pass some antitrust action—put a moratorium on a lot of these mergers and acquisitions. We want to have some competition in the food industry.

I think I can get a lot of support from Republicans as well as Democrats. I think there will be a lot of support on the floor of the Senate for these amendments that try to do something about changing farm policy so our producers—whether they be in Minnesota, whether they be in Idaho, whether they be in the Midwest, or whether they be in the South—are able to make a living and support their families.

In all due respect—I hate to say this—bankruptcy is all too relevant to what these family farmers are going through. I have an amendment that says we ought to do some policy evaluation if we are going to be talking about bankruptcy and we are not going to do a darn thing to deal with the predatory policies of these credit companies, that we are not going to do a darn thing about the ways in which they hook people in who have precious little consumer protection, that if we are going to talk about low-income citizens, I would like to see some policy evaluation.

I would like to see us have some understanding about what is going on in welfare. Where are these mothers and children who are no longer on the rolls? What are their wage levels? Is there affordable child care? Do these families have health care coverage or do they not have health care coverage?

It is also the case that my colleague who sits right next to me, Senator KENNEDY, has an amendment he wants to offer to raise the minimum wage. I find it interesting that what we have here is a piece of legislation that does nothing by way of providing consumer protection, does nothing by way of challenging these credit card companies, and does absolutely nothing to prevent the bankruptcy in the first place.

We have the evidence that shows that very few people—maybe 3 percent—have abused the law. And because of that, we are passing a draconian, harsh piece of legislation which imposes enormous difficulties on the poorest families, on working-income families. Yet when some of us say we want to bring some amendments to the floor that deal with exorbitant interest rates, to make sure that low-income people have access to banking services, and to make sure we do something about the economic security for working families—and I include family farmers who are going bankrupt—we are told by the majority leader we are going to be shut out from being able to offer amendments, and therefore the majority leader files cloture.

We will have a cloture vote. I am going to vote against cloture; I am sure many of my colleagues are going to vote against cloture, and then I am sure the majority leader is going to pull the bill. If he pulls the bill, that will be actually a plus for Americans. This is a deeply flawed piece of legislation—great for the credit companies, terrible for consumers.

But if he pulls the bill, also that is basically a message to those of us who for weeks now have been saying we want to come to the floor with substantive amendments, to fight for the people we represent, to do something about making sure they have a decent chance—and I am talking in particular about family farmers. Basically what I am hearing from the majority leader

is: Anytime you say you are going to come to the floor with these amendments, I am going to pull the legislation. I am not going to give you a vehicle. We are not going to have an up-or-down vote on minimum wage.

Apparently, a lot of my colleagues on the other side do not want to be on record; we are not going to have an up-or-down vote on getting farm prices up; we are not going to have an up-or-down vote on a moratorium dealing with these mergers and acquisitions; We are not going to have an up-or-down vote on amendments that really do deal with these payday loans, with these exorbitant interest rates, making sure again that low-income people have access to banking services.

I think there will not be enough votes for cloture. I do not think there should be enough votes for cloture. I want to say today on the floor of the Senate, especially to the majority leader—not so much to my colleague from Utah—if each and every time, as a Senator from an agricultural State, I am going to be shut out from having any vehicles whereby I can bring some amendments to the floor to change farm policy so these producers do not go under in my State, then I am going to have to look for whatever leverage I have as a Senator to force some cooperation on the other side so we can have a genuine, substantive debate about a lot of issues that are important to people's lives.

Let's talk about raising the minimum wage. Let's talk about what is happening to family farmers. Let's talk about health care policy. Let's talk about consumer protection.

This effort on the part of the majority leader—and I guess, therefore, the majority party—to shut us out from introducing substantive legislation that would make all the difference in the world to the people we represent is just simply unacceptable. I do not think this is any way for us to operate as a Senate. I urge my colleagues to vote against cloture.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I yield 7 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 7 minutes.

Mr. SESSIONS. I thank the Senator from Iowa and appreciate his steadfast leadership on this issue. I also thank the distinguished chairman of the Judiciary Committee, Senator HATCH, for his leadership.

We have worked over the past several years to produce a much needed piece of legislation, a reform of Federal bankruptcy law. Bankruptcy is provided for in the U.S. Constitution, and we have seen some remarkable changes in the last few years that demand that we reform the system.

Last year there were over 1.4 million bankruptcies filed in America. That comes out to almost 4,000 filings every day of the year. Since 1990, personal bankruptcies are up 94.7 percent. This dramatic increase in personal bankruptcies occurred in spite of the fact that over that same period business bankruptcies fell 31 percent and the country enjoyed a healthy and expanding economy. These statistics demonstrate there is need for reform immediately.

Bankruptcy exists to provide relief as a last resort for the most debt-ridden individuals. It is not a financial planning device. This bill was needed last year, but it did not pass due to the same kinds of partisanship and political tactics we have seen here today.

This year, I think Congress will pass this bill. I hope we will proceed to it today for a final vote. The majority leader of the Senate and the Members of this Senate have a lot of work to do this year. We have quite a number of critical appropriations bills, including the Defense appropriations that may come up later tonight. We have to consider those bills.

We cannot have a bankruptcy bill like the one that passed this Senate last year with 97 votes—a very similar bankruptcy bill which almost every single Senator voted for. That bill turned into a Christmas tree of amendments on every kind of unrelated issue that any Senator wanted to bring up, and I am afraid that the same thing might happen today.

Why is this happening? I will tell you why. Some Senators do not want this bill to pass, but they are afraid to vote against it straight up, and so they offer amendment after amendment, and they tell the majority leader: We won't have any limit. We want to offer as many amendments as we can on a number of unrelated subjects—international affairs, economics, whatever they want to bring. This means we could be here for weeks on a bill that has been debated for the last 2 years with great intensity. The Senate does not need that. The majority leader cannot allow that to happen. We will have to not proceed with it, I assume, if we cannot get cloture today.

A bankruptcy bill similar to this passed the House earlier this year 313–108. Senator GRASSLEY's bill came out of the Judiciary Committee 14–4. So I am proud to be a key sponsor of this. I think it makes the kind of changes we need without changing the fundamental principles that if a person is over their head in debt, helplessly unable to pay their debts, they ought to be able to wipe out those debts and start over. We have no dispute with that principle. That is a fundamental, historic principle.

I know it makes a lot of people mad to think that somebody does not have to pay their debts, that they can just go to court and wipe out their duly signed contract. But this country has always adhered to the view that if your debts reach a certain level and you cannot pay them, you can start afresh.

We do not have debtors' prisons. And I certainly agree with that. But we do have a growing trend in America in which people making $60,000, $80,000, $100,000 a year owe a significant—but not great—debt and just go into court and file straight bankruptcy under chapter 7. If they make $100,000 a year and they owe $60,000 that they could easily pay off in a period of years, they can go into bankruptcy court and wipe out their debt. These individuals can file under Chapter 7 and just not pay their debts—whether it is the guy next door, the garage mechanic, the automobile car dealer, the credit card bank note—that debt can simply be wiped out. There is no way a court can stop this behavior right now. It is not being stopped. And it is going on regularly.

What Senator GRASSLEY's legislation does is say to the courts: You have a duty to look at the debtor's income, to analyze what a person's income is. If they are able, over a reasonable period of time, to pay back a significant portion of their debt, they ought to pay it back. Why? Because it is a moral question. And the moral question is this: The man making $100,000, who owes $60,000 in debt—$2,000 of that may be to the mechanic who fixed his car—who ought to be paying that?

Who ought to get the money? The man who did the work for him and fixed his car or fixed the roof on his house? Should he be paid, or should this man be able to live in his house bankrupt and not pay his debt to the people who helped fix it for him? It is just that simple. It is a question of justice and right and wrong.

One provision that I worked hard to put into this bill that I think is good and very innovative is a requirement that people at least consider an approach to credit counseling before they actually file for bankruptcy. There are a number of excellent credit counseling agencies in America. They can sit down with people and negotiate with their creditors and get them to reduce the interest rates. They can help people make payment plans. They help the family put a budget together. If somebody is addicted to gambling, these credit counseling agencies can get them in Gamblers Anonymous. If they have mental health problems, they can help with that. The agencies can help them decide which debts ought to be paid first, such as the ones with the highest interest. They can negotiate on behalf of their clients delays in certain debt so they can pay others first.

I visited for virtually a full day at a credit counseling agency in my hometown of Mobile. I was extraordinarily impressed with what they do and the services they offer. This bill would require that, before you file for bankruptcy, you ought to at least talk to one of these credit counseling agencies.

We have seen what is happening today before. Senator GRASSLEY saw this at just about this time last year. We had a bill that came up and cleared the committee by an overwhelmingly

bipartisan vote—a bill that we got through this body with an overwhelming vote. I believe 97 Senators voted for it. Yet when it came back up, we had just these kinds of dilatory tactics designed to delay and put the bill off to avoid a vote. I don't know why that is true.

There is nothing but fairness and justice and improvement in this bill. It is time for us to respond to this growing rush of people who are claiming bankruptcy, many of whom don't deserve or need the protections of the judicial system to address their debts. We want bankruptcy to be available for those who truly need it but not for those who view it as an easy way to wipe out debts that they could pay.

I think we have made some real progress with this bill. I hope politics doesn't enter into the Senate's consideration of these reforms. If it does, I hope the American people will understand and look through the political tactics and the manipulation to see right through this.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first of all, before the Senator from Alabama leaves, he needs to be thanked for the outstanding work he has done to help put this compromise piece of legislation together that came out of committee by a bipartisan vote of 14–4, and also during the remarks he just presented for laying out the history of this legislation last year in which the bill passed 97–1. He very accurately stated what the situation is.

He also now raises the question, which is a legitimate question: What has gotten rotten in Denmark, so that all of a sudden a bill that passed 97–1 about a year ago is being filibustered in the effort to bring it up, if some people aren't playing some sort of game?

I thank the Senator from Alabama for his work on this bill.

I also thank him for reminding the Senate of what that situation was a year ago and raising the question of what has changed. Not much has changed. It is just that some people want to use tactics behind the scenes to keep a bill from coming out in the open when they wouldn't express those same views in a vote on the floor of the Senate.

Also, there was a previous speaker on the other side, a friend of mine, who recently spoke against the cloture motion to bring debate on this bill to a halt on the motion to proceed and then immediately get to the bill; he expressed a view that there ought to be opportunity to offer nongermane amendments on the issue of agriculture.

Normally, I am sympathetic to those opportunities to bring to the floor of the Senate the complaints and concerns of an economic crisis such as we are facing in agriculture. But I think there are opportunities available to do that other than messing up an opportunity to bring needed reform to the bankruptcy code.

Besides, during my remarks today, I am going to point out to the Senator from Minnesota how there are opportunities in this very bankruptcy bill to help the family farmer. They relate directly to the permanent reauthorization of chapter 12 bankruptcy. If that is not authorized in this bill—in fact, if this isn't done by the 1st of October—there is no chapter 12. Then, instead of using a chapter of the bankruptcy code that is written to the special needs of agriculture, the farmers are going to have to file for bankruptcy under chapter 11. That was written for corporate America. That doesn't fit the needs of agriculture. They are going to find, unlike chapter 12's existence for reorganization of farmers where 88 percent of them are still able to farm and maintain the family farming operation, that there will be a very high percentage of farmers forced to file under chapter 11, the chapter friendly to corporate structure, and they are not going to be farming anymore at all. They won't be farming as family farmers, if they farm.

Mr. President, we are coming soon to a cloture vote on the bankruptcy bill. If cloture is not invoked, it will be very unfortunate. I've worked very closely with the minority and with Senator TORRICELLI, who is the ranking member on the Subcommittee on Administrative Oversight and the courts, to fashion a bill which contains many changes and modifications requested by Democrats. For instance, the means-test is looser than I would personally prefer. But I have made this change to respond to concerns raised by the other side of the aisle.

I think we're in this situation because we have Members from the minority party who want to offer an unlimited number of amendments on subjects totally unrelated to bankruptcy. This, of course, is a delay and stalling tactic by imposing these nongermane amendments upon a very important bill, a bill that will pass this body by an overwhelming margin, if we get it up for a vote, but a bill that can be stalled by people who maybe don't want this bill to pass and don't want to face it head on, because this bill passed by a 97–1 vote in the last Congress.

From my conversations with the Republican leadership, I think it's fair to say that we are willing to accommodate a few unrelated amendments from the minority. But, it appears that some Members of the Minority want to turn the bankruptcy bill into a Christmas tree for everything you can think of. Obviously, that's not acceptable. So here we are. At some point, I hope that this situation is resolved. We Republicans stand ready to be reasonable.

I want to take this opportunity to talk about what is being delayed. The bankruptcy bill contains some very important provisions that are vital for family farmers, especially Midwestern family farmers, and particularly with this economic crisis even in my State of Iowa.

As we all know from recent debate on the emergency agriculture appropriations bill, which is in conference this very night to iron out the differences between the House and Senate, many of America's farmers are facing financial ruin. We have some of the lowest commodity prices in 30 years. Pork producers have lost billions of dollars—not just in income but in equity. The price of corn is currently well under the cost of production. And the cash market for soybeans has reached a 23-year low. This is all in addition to the poor weather conditions in parts of the Midwest and the drought in the 10 States of the Eastern United States.

Just last week, I sent a letter with a number of farm State Senators from both parties, including the Democratic leader, Senator DASCHLE, signing it, to all Senators, discussing the needs for reauthorization of chapter 12, which is done in this all-encompassing bankruptcy reform legislation.

As you can imagine, these difficult financial circumstances have sent many farming operations into a tailspin. Clearly, we need to make sure that the family farmers continue to have bankruptcy protection available during this difficult period. But bankruptcy protection won't be available if this bill is blocked by turning it into a Christmas tree.

I don't pretend to talk about bankruptcy being needed by the family farmers as a substitute for anything that can be done here in the Congress or what can be done through the marketplace to bring profitability because that is what is absolutely necessary. But under any circumstances, in good times or bad times, some farmers are going to need to have the protection of chapter 12, just as corporations in America have the protection of chapter 11. And farmers are entitled to a chapter that fits the needs of agriculture, the same way corporate America is entitled to a chapter that fits the needs of corporate America.

Title X of this bill makes chapter 12 permanent and makes several changes to chapter 12 to make it more accessible for farmers and to give farmers new tools to assist in reorganizing their financial affairs.

As things stand now, chapter 12 will cease to exist by September 30 unless we get this bill through the Senate, through conference, and on the President's desk. It would be a supreme act of irresponsibility if we let chapter 12 die and we leave our farmers without a last ditch protection against foreclosure and forced auctions.

Make no mistake about it. By delaying this bill, Senators who vote against cloture will leave family farmers across America exposed to forced auctions and foreclosures. That is what I urge the Senator from Minnesota to be cognizant of as he votes against cloture, as he indicated he would do.

Back in the mid-1980s, when Iowa was in the midst of another devastating

farm crisis, I wrote chapter 12 to make sure family farmers would receive a fair shake in dealing with the banks and the Federal Government as a lender of last resort. At that time I didn't know if chapter 12 was going to work or not, so it was only enacted on a temporary basis. Chapter 12 has been an unmitigated success. As a result of chapter 12, many farmers in Iowa and across the country are still farming and contributing to the American economy. With a new crisis in the farm country, we need to make chapter 12 a permanent part of Federal law. This bankruptcy bill provides for permanency for farmers.

Chapter 12 worked in the mid-1980s and it should be made permanent so family farmers in trouble today or any time in the future can get breathing room and a fresh start. This statement that chapter 12 works for farmers is backed up by an Iowa State University study of farmers who used chapter 12 during the 1980s. Mr. President, 88 percent of those farmers were successfully farming at the time of the study.

The Bankruptcy Reform Act doesn't just make chapter 12 permanent; the bill makes improvements to chapter 12 so it will become more accessible and helpful for farmers. First, the definition of a family farmer is widened so more farmers can qualify for chapter 12 bankruptcy protections. Second, and perhaps more importantly, my bankruptcy bill reduces the priority of capital gains tax liabilities for farm assets sold as a part of a reorganization plan. This will have the beneficial effect of allowing cash-strapped farmers to sell livestock, grain, and other farm assets to generate cash-flow when liquidity is essential to maintaining a farming operation. Together, all of these suggested reforms will make chapter 12 more effective in protecting America's family farms during this difficult period. These reforms will never happen if the bill is continually blocked by Senators offering unrelated and nongermane amendments.

It is imperative we keep chapter 12 alive. Before we had chapter 12, banks held a veto over reorganization plans. They wouldn't negotiate with farmers and the farmer would be forced to auction off the farm, even if the farm had been in the family for generations. The fact is that fire-type sales under these circumstances actually drive down prices at those auctions so both the creditor and the debtor end up with less. Now, because of chapter 12, the banks are willing to come to terms.

We must pass this bankruptcy reform bill to make sure America's family farms have a fighting chance to reorganize their financial affairs. Unless things change, this bill may be set aside because of stalling tactics by some Members on the other side of the aisle.

I ask unanimous consent to have printed in the RECORD a letter signed by five Members, including Senator JOHNSON of South Dakota, Senator BROWNBACK of Kansas, Senator Bob KERREY of Nebraska, and Senator Tom DASCHLE of South Dakota.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 13, 1999.

SUPPORT BANKRUPTCY PROTECTIONS FOR FAMILY FARMERS

DEAR COLLEAGUE: As the Senate returns to work for the final months of the first session of the 106th Congress, we will likely consider S. 625, ''the Bankruptcy Reform Act.'' We are writing to ask your support for Title X of S. 625, which contains vital protections for America's family farmers.

By now, we are sure that you are aware that the agricultural sector of our economy is experiencing severe distress. Due to grain, livestock, cotton, rice, and commodity indexes plunging to record lows this summer, many family farmers are in the midst of an economic crisis. Farmers across the nation are suffering some of the lowest farm commodity prices in 30 years. Pork producers have lost billions of dollars in equity, the price of corn is currently well under the cost of production and the cash market for soybeans has reached a 23 year low. This is all in addition to the poor weather conditions in parts of the Midwest.

In the midst of desperate times in farm country, we believe that the important reforms contained the Title X of S. 625 are essential. Title X makes Chapter 12 of the bankruptcy code permanent. As it stands now, Chapter 12 will expire at the end of this fiscal year. If that happens, millions of family farms may face foreclosure and forced auctions. We believe that Congress has an affirmative responsibility not to leave financially troubled family farmers without the protections of Chapter 12.

Title X also alters Chapter 12 to make it more accessible and helpful for farmers. First, the definition of family farmer is widened so that more farmers can qualify for Chapter 12 bankruptcy protections. Second, Title X also reduces the priority of capital gains tax liabilities for farm assets sold as a part of a reorganization plan. This will have the effect of allowing cash-strapped farmers to sell livestock, grain and other farm assets to generate cash flow when liquidity is essential to maintaining a farming operation. Together, we believe that these reforms will make Chapter 12 even more effective in protecting America's family farms during this difficult period.

While floor debate may focus on other provisions of S. 625, we ask that you support Title X.

CHUCK GRASSLEY.
TIM JOHNSON.
SAM BROWNBACK.
BOB KERREY.
TOM DASCHLE.

Mr. GRASSLEY. I yield the floor and ask unanimous consent that a quorum call I suggest be equally charged to both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FEINGOLD. Mr. President, I will say a few words about the cloture vote we will have shortly on the bankruptcy bill, S. 625. I understand many in this body want to pass bankruptcy legislation this year. Certainly, the credit card industry is eager for the Senate to act. I want to be able to vote for what I consider a balanced bankruptcy bill.

Hardball tactics of this kind will not move this body closer to that goal. By filing a cloture motion a few seconds after he brought up the bill, the majority leader is predetermining the outcome. Cloture, I am glad to say, will not be achieved this afternoon. Cloture should not be achieved until Senators have a chance to offer amendments to the bill.

Bankruptcy is, of course, a very complicated area of the law. We have not had real bankruptcy reform and change since 1978. It has an impact upon millions of American consumers and businesses. Unfortunately, S. 625 is a very one-sided piece of legislation. I have found an amazing virtual unanimity among all the experts on bankruptcy. Whether talking to academics or judges or trustees and even practitioners—of course you expect to hear this from debtors' attorneys but also from many creditors' attorneys—they all say this bill as it stands today should not pass.

The only way to make it work, the only way to improve it, is to amend it. However, many of the amendments we want to offer—and they are very much relevant to the bankruptcy issue—could not be offered if we invoke cloture today.

So I am hopeful and believe Democrats will vote today against cloture, to protect their right to offer bankruptcy amendments to this bankruptcy bill.

Let me also take a moment to remind my colleagues that this body passed a bankruptcy reform bill last year by a vote of 97 to 1. I voted for it. We had nearly a unanimous vote for a bill. That bill could have become law if the conference committee had not disregarded the wishes of the Senate. Let me just be clear, in response to the comments a few minutes ago of the Senator from Iowa, there is nothing fishy going on here. It is not as if the same bill that passed 97 to 1 is before us. It is very much the opposite. This is the hard nosed, one-sided legislation that in my mind is the fantasy of the other body in this institution. It is not the bill I was comfortable voting for and was pleased to vote for last year.

This bill is not the balanced approach that the Senate came up with last year. So amendments, many amendments, frankly, are needed. The way to reduce the number of amendments is to accept some of them. Many of the amendments I and my colleagues are going to offer on this bill are reasonable, moderate, and widely supported. They will make this a more fair and balanced piece of legislation.

I urge my colleagues to vote ''no'' on cloture. And even more, I urge the majority leader and the proponents of this

bill to simply face the honest policy disagreements that need to be resolved either through amendments or through negotiations. Strong-arm tactics like filing for cloture right off the bat on a bill of this magnitude and complexity are not going to work.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, I ask consent to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

THE TRADE DEFICIT

Mr. DORGAN. Mr. President, today there was an announcement by the Commerce Department about this country's monthly trade deficit. This month our trade deficit in goods and services surged to a high of $25.2 billion just for the month. If you are just worried about manufactured goods, it's much higher than that; but for goods and services, the trade deficit was $25.2 billion just this month. It is the 7th consecutive month. We have a very serious trade deficit problem and nothing seems to be being done about it.

I want to show my colleagues a chart that describes what is happening with both exports and imports in this country. Incidentally, this will be met with a large yawn tomorrow in the newspapers. I assume the daily papers here in Washington, DC, will go to the same so-called experts for comments about what is causing the trade deficit. They will give the same comments they have given month after month, year after year. In fact, in the old days they used to say that the reason we have a trade deficit is because we have a fiscal policy deficit and as soon as we get rid of the budget or fiscal policy deficit, we will not run a trade deficit. Of course that is not the case. The trade deficit continues to grow at an alarming pace, even when the Federal budget deficit is largely erased.

The question is whether this Congress and this administration will decide that the current trade policy, which is drowning this country in red ink, will be changed and if so how it will be changed. I find it interesting that we are now headed towards a World Trade Organization meeting in Seattle, in late November and early December. During that first week of December, our trade officials will go to Seattle and talk with representatives from other countries around the world, talking about our trade policies. If ever there was a need for this country to decide its current trade strategy is unworkable, it is now, at this moment.

I thought it would be interesting to talk a little bit about what our trade officials have been doing while this huge trade deficit continues to explode. Recently, this country got angry with the European Union for, among other things, the European Union's refusal to lower barriers to the import of bananas into Europe. We do not produce bananas, but large American companies produce bananas in the Caribbean. They wanted to ship these bananas into Europe, but Europe didn't want their bananas.

This got us upset, so this country is taking tough action against Europe. We said, Europe, if you don't shape up this is what we are going to do. We are going to impose 100 percent tariffs on your products and selected the products we want to impose 100 percent tariffs on.

We went through a similar dispute with the European Union over imports of beef with growth hormones. And we imposed 100 percent tariffs on selected products. Let me show you what they are, among others: Roquefort cheese. That is getting tough, imposing a 100 percent tariff on Roquefort cheese. Goose livers—that's going to scare the devil out of the Europeans, a 100 percent tariff on goose livers. How about chilled truffles? That is getting tough. And animal bladders.

So this country cranks up all its energy because we can't get bananas we don't produce into Europe. In our dispute over beef hormones, we decide that we are going to clamp down on goose livers, truffles, and animal bladders. That is a trade strategy? I don't think so. If down at Trade Ambassador's office, down at Commerce or elsewhere, you want to do something to help this country's trade balance, then get serious about it. Do something to stand up for this country's producers. Force open foreign markets and demand—literally demand—other countries to stop the dumping of products into our marketplace below their acquisition cost, injuring our producers.

I have talked for a moment about goose livers, truffles, Roquefort cheese and animal bladders. Let me talk about something that is a bit different—durum wheat that is being hauled into this country from Canada in record supply. In North Dakota we produce 80 percent of all the durum produced in America. Durum, by the way, is ground into semolina flour and then turned into pasta. If you eat pasta, you are likely eating something that came from a field in North Dakota. Guess what is happening? Our farmers are losing money hand over fist, and at the same time Canadian farmers are dumping massive quantities of durum wheat into our marketplace, undercutting our farmers and injuring them badly.

What are we doing about it? Nothing. We don't lift a finger. We are willing to go to war over truffles and goose livers. We are willing to take tough action against the Europeans with Roquefort cheese. Do you think anybody will go to the northern border and decide to stop unfair trade coming into this country, injuring our family farmers? No. Not with this trade strategy.

This Congress and this administration need to understand that this is a very serious problem. Today's announcement of a $25.2 billion trade deficit for the month of July suggests again that we must take additional action. As we head towards the December meeting of the World Trade Organization, and as we see this morning's announcement about the trade deficit, I hope meetings here in the Congress, and with the administration, will allow us to develop a trade strategy that better represents this country's economic interests, stands up for this country's producers, and demands open foreign markets.

Mr. President, I know the Senator from Vermont wants to speak on the bill that is going to be pending so at this point let me yield the floor.

BANKRUPTCY REFORM ACT OF 1999

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, what is the time situation? I thank the Senator from North Dakota for yielding.

The PRESIDING OFFICER. The minority has 12 minutes and 38 seconds remaining.

Mr. LEAHY. So the Senator from North Dakota was speaking on my time?

Mr. DORGAN. I was speaking in morning business.

Mr. LEAHY. No, I think the Senator from North Dakota had assumed he was speaking in morning business. I ask unanimous consent the time he was using was as in morning business and that I be given the full time I had available at the time he began speaking.

Mr. DORGAN. Mr. President, if I might inquire, I had sought consent to speak for 10 minutes as if in morning business.

The PRESIDING OFFICER. The Senator is correct. The Senator spoke under morning business.

The Senate was in a period of morning business. The Senate was not on the bill, and the time until 5:30 is controlled.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I ask unanimous consent that I have 15 minutes.

The PRESIDING OFFICER. Acting in my independent capacity as a Senator from Kansas, I object.

Mr. LEAHY. So the Senator from North Dakota effectively used my time? Is that what the Presiding Officer is saying?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. I understand.