

Thinking Out Loud

By Hillary Rodham Clinton



Bankruptcy shouldn't let parents off the hook

Over the past weeks, I've learned about proposed bankruptcy-reform legislation in the House of Representatives that could undermine the ability of some parents to collect child support. I have no quarrel with responsible bankruptcy reform, but I do quarrel with aspects of the bill that would force single parents to compete with big banks trying to collect credit card debt. The welfare of our children must come first.

Let me tell you about a hypothetical family: Jan and Simon have three children, ages 1, 3 and 5. Simon is the manager of a small shoe store with an annual salary of \$33,000. Jan is a full-time homemaker.

Sadly, they divorce, and Simon agrees to pay child support. Unfortunately, within a year, he's involved in a serious car accident and loses his job. Jan, struggling to raise their three children, stops receiving child support checks. Unable to find work, and behind on his bills, Simon files for bankruptcy protection. Jan is just one of his creditors.

Under current bankruptcy law, Simon is obligated to pay his taxes, his student loans and his child support and alimony. But under the legislation being considered by the House, certain of his credit card debts would also be mandatory. In Simon's case, as parties vie in the fierce competition for limited funds, child support payments and credit card obligations would be pitted against each other.

Unfortunately, Jan and Simon's story is all too common. This year alone, 1.4 million families will file for protection from unmanageable consumer debt under our bankruptcy laws. This represents an increase of about 400 percent since 1980. While some reform is in order, any accompanying threat to child support and alimony payments is not.

This administration has worked too long and too hard to improve child support collection to see it now threatened. The president has cracked down on nonpaying parents and strengthened enforcement. Since 1992, collections are up 68 percent.

Today, families that file under Chapter 7 are relieved of certain debts, but as in Simon's case, they must still repay others, including taxes, educational loans and family and child support obligations. Many also try to continue making home mortgage and car payments. They leave court relieved of some debt but certainly not

debt-free.

The aspects of the House bill that concern me would elevate certain types of credit card debt to the same high priority as taxes, school loans and family support. The challenge for Congress is to pass a law that is balanced and fair to both the creditor and the debtor — protecting families and children while reducing abuse of the bankruptcy laws.

The challenge for our economy is to preserve access to credit while making sure that eligible consumers are educated, responsible and protected from unscrupulous practices. It wasn't too long ago that large segments of our society were denied credit. At the time, it was important to provide people with this valuable economic tool, but now, as we all know, credit is readily available.

How many times in the past few months has your phone rung during dinner? You excuse yourself, leave the table and pick up the receiver, only to be greeted by a cheery voice on the other end of the line, happily offering you a "pre-approved credit card." Or how many times have you seen or heard advertisements encouraging people with bad credit to borrow more?

For many people in financial straits — for whatever reason — such offers may sound too good to be true. Unfortunately, down the line, too many people find they didn't comprehend how much they would owe and don't have the means to repay the additional debt.

The average bankruptcy filer in this country earns less than \$18,000 a year after taxes. And, now, credit card companies even target college and high school students.

Most people use their credit cards responsibly and pay their bills reliably. But, for many Americans — like Jan and Simon — the difference between fiscal security and financial ruin is just one calamity away. A divorce, a lost job, an accident or a child's illness can rob a family of its financial security and eventually lead to bankruptcy court.

As members of Congress grapple with bankruptcy reform, they must deal with the problems that face both creditors and debtors. But one issue is clear. Any effort to reform the bankruptcy system must protect the obligations of parents to support their children.

• To find out more about Hillary Rodham Clinton and read her past columns, visit the Creators Syndicate World Wide Web page (www.creators.com).

The Washington Times

★ THURSDAY, MAY 7, 1998

Talking It Over

By Hillary Rodham Clinton



Bankruptcy reforms must be evenhanded

The vast majority of the 1.4 million Americans who will find themselves in bankruptcy court this year are not criminals or shady characters. They are nurses and secretaries, carpenters and teachers, bank tellers and grocery-store clerks. On average, they make less than \$18,000 a year after taxes.

In other words, they are ordinary, hard-working Americans who want to pay their bills, but who find themselves unable to manage, for reasons including the sudden illness of a child, a lost job and simply living too close to the financial edge.

Last May, I wrote about the flaws of bankruptcy-reform legislation then under consideration by the House of Representatives — legislation that could unfairly pit child-support payments against credit card debt and fail to protect the poor, elderly and unwary from unscrupulous credit practices.

Unfortunately, despite some good faith efforts at improvement, the House proceeded to pass an unacceptable bill.

Bankruptcy reform is not easy. The challenge is to preserve access to credit, which is good for the economy, while curbing abuse and encouraging practices that help consumers live within their means.

The president supports reform that is both balanced and responsible. Debtors who have the genuine capacity to repay some of their debt should be required to do so, but abused by creditors need to be stopped as well.

Thanks to the hard work of many legislators and advocates, the Senate has passed legislation, by a margin of 97 to 1, that goes a long way toward achieving the proper balance. Members of the Senate should be commended for taking the time and effort to reach a bipartisan resolution of some very tough issues.

This week, when members of both houses sit down to reconcile the differences between the House and Senate versions, it is critical that this spirit of moderation prevail.

First, American consumers must not become the scapegoats of bankruptcy reform. Any reform must be evenhanded, addressing the abuses of creditors as well as debtors.

One area demanding attention is called "reaffirmation," which occurs when a creditor, too often using threats or misinformation, convinces a debtor to agree to pay bills that could legally have been discharged in bankruptcy. One bankruptcy judge told me that when she reviewed her cases, she was astonished by the number of debtors who had agreed to reaffirm their unsecured debts even when it seemed to be against their best interests.

We must ensure that, in the future, any reaffirmation of unsecured debt is actually in the debtor's best interest and not the result of coercive practices on the part of the creditor.

In addition, the law must require that creditors give consum-

ers more and better information about their loans. Many consumers don't understand that when they pay only the minimum balance on their bills, it may take years to pay them off and may dramatically increase the cost of their purchases.

Think of it this way: If you charge a big-screen TV for \$2,500 on your credit card, figuring you will pay the typical monthly minimum charge at an average interest rate of 15.6 percent, it could take seven years to pay off the loan, and at the end of that time, you could have paid \$4,200, almost double the original cost of the television. For many, the costs are even greater.

Similarly, consumers may not understand that, when they are offered a "pre-approved" credit card, the company has not determined whether they can afford additional debt. This kind of information must be provided with the 3 billion unsolicited credit cards that are offered to Americans each year.

Another critical concern is how to decide who will obtain bankruptcy relief. The Senate, appropriately, would put these decisions in the hands of bankruptcy judges, who have an opportunity to look at each individual's situation. The House would remove most of the court's discretion under a misguided standard that fails to take into account the differing needs of families or local variations in living expenses.

It is important to note that no one leaves bankruptcy court entirely debt-free. Certain debts are

"nondischargeable," meaning the court cannot forgive them. An additional problem with the House bill is that it would create new categories of nondischargeable debt that after bankruptcy could, in some cases, pit credit card debt against alimony, child support, taxes and student loans.

The bottom line is this: This administration supports bankruptcy reform, but only if it is fair and balanced. Americans who can repay a portion of their debts must do so. But at the same time, consumers must fully understand the costs of credit, and America's families must be protected from coercion and other predatory creditor practices.

I hope the members of Congress will follow the Senate's lead and pass reform the president can sign into law.

The Washington Times
THURSDAY, OCTOBER 1, 1998

Democrats resist White House push for shorter inquiry

By Warren P. Strobel
THE WASHINGTON TIMES

The White House is fighting an uphill battle to rally Democratic lawmakers around a streamlined probe and some form of censure for President Clinton, Democratic sources said yesterday.

With the first in a series of House votes on an impeachment inquiry expected next week, aggressive lobbying by Mr. Clinton's defense team has not dissuaded many Democrats planning to vote in favor of a probe.

While the terms of the inquiry were still being thrashed out on Capitol Hill yesterday by Republicans and Democrats on the House Judiciary Committee, there seems little likelihood it will be the

slimmed-down version the White House is seeking.

White House Press Secretary Michael McCurry made the case publicly for a House inquiry that is less expansive than the 1974 Watergate proceedings, arguing that all the relevant facts about the president's relationship with intern Monica Lewinsky are already in the public domain.

"The facts, in abundant detail, have been made available to the American people," he said. "And the notion that the process should be somewhat different [from 1974], reflecting that reality, is a concern of Democrats on the Hill and, obviously, a concern shared here at the White House."

While many House Democrats share that view, Mr. Clinton faces

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—A former official advising the White House

several hurdles in trying to cement a common position, those involved in his defense say.

Any proposal that bears too strong a White House imprint will be rejected, not just by Republicans, but by Democrats, who often have had rocky relations with Mr. Clinton, said one outside adviser who participates in White House strategy sessions.

The shape of a Democratic alternative "will be more determined by House Democrats than by the White House," the adviser said. "People want to avoid the 'not-invented-here' problem."

House Democrats are saying to Mr. Clinton, "If anybody's going to save the president, it's going to be us. And you're going to owe us — not vice versa," he said.

"The No. 1 immediate goal is to construct a scenario that creates a broad middle position that supports something like a reprimand," said a former official advising the White House.

"The delicate issue now is timing," said the former official, who likewise requested anonymity.

The House has to get much closer to an actual impeachment vote — something it presumably will not do for many months, until after a probe is well under way — before a deal is cut, the official said.

Indeed, the White House is publicly acknowledging that some Democrats will vote in favor of an impeachment inquiry, tarnishing any hopes of portraying the probe as a purely partisan exercise.

Asked how the White House would view Democrats who vote for hearings, Mr. McCurry said:

"I think that we would argue strenuously against it, but we would well understand people, as they look at this issue, examine what their conscience requires, examine what they believe is their constitutional obligation, and then vote what they believe is the right vote. I don't think we would be in a good position to take much issue with that."

Asked if the White House has proposed trading favors for congressmen's districts, fund-raising help or anything similar in return for a "no" vote on an impeachment inquiry, the spokesman said, "I haven't heard of any discussions of that nature."

Clinton affair lessens teens' respect for politicians

By Julia Duin
THE WASHINGTON TIMES

More than half of America's teen-agers are losing respect for politicians because of President Clinton's affair with Monica Lewinsky, according to a new survey released yesterday.

The poll, conducted by the Pew Research Center, also found that more than half of parents with children ages 8 to 10 have discussed the sex-and-lies scandal — a topic brought up by the children 70 percent of the time.

Many parents have treated the Lewinsky affair as a chance to talk with children about morals and values, the poll found.

"Any kind of event like ... becomes a source for discussion about what's right and what's wrong and personal responsibility," said Michael Schulman, a psychologist from New York City who specializes in children and morality.

Among families, discussion of the scandal ranks up there with the Mark McGwire and Sammy Sosa home-run derby, parents told pollsters last week. Only schoolyard shootings generated more discussions between teens and parents. Of all parents polled, 43 percent said they are talking about politics with their children more than ever before.

But discussing the sexual aspects of the scandal depended on the child's age. Of parents with teen-agers, 58 percent report discussing whether the president had sex with Miss Lewinsky, compared with 40 percent of those with children 11 to 13 years old and just 17 percent of parents with 8- to 10-

year-old children.

Teen-agers — one in five have read the report, the poll found — are more amused than disturbed by the scandal.

Fifty-one percent of parents with a teen-ager said the scandal has made their child less respectful of politicians. Parents who vote Republican expressed more concern (53 percent) about this than parents who vote Democratic (33 percent). Republican parents (44 percent) were also more apt to believe the scandal would harm their children's views of government than Democratic parents (27 percent).

It's not just parents who are talking about Mr. Clinton's affair; one in four teen-agers report talking about the scandal during Sunday school or religious services; half of them said they discussed it in

school.

Parents said their children got most of their information from television compared to newspapers or the Internet. Although more than half of the children older than 11 have Internet access, few parents said they were limiting access since release of graphic impeachment report by independent counsel Kenneth W. Starr.

Three-quarters of all parents said the best lesson for their children would be for Congress to punish the president. Thirty-seven percent favored impeachment, 39 percent favored censure or a reprimand and 24 percent either didn't know or favored no punishment at all.

• This article is based in part on wire service reports.

THE WHITE HOUSE

Office of the Press Secretary

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RADIO ADDRESS OF THE PRESIDENT
TO THE NATION

The Oval Office

THE PRESIDENT: Good morning. Tomorrow is Mother's Day, a special moment to express the gratitude, respect, and love we feel all year round. Our mothers give us life; they offer us unconditional love, strong guidance, and the sense that we can grow up to do anything we can dream of. From our first moments, mothers are our best teachers and most selfless friends. And, like my own mother, whom I miss very much, especially on Mother's Day, they rarely ask for thanks. A mother's main wish is to see her children grow up healthy and happy.

Today, I want to talk about a few ways we, here in Washington, can give all mothers that peace of mind, whether they work in an office, a factory, a hospital, or at home. To make that tribute to motherhood, we must all take responsibility for the care of our children. For many mothers who work, as my mother did, peace of mind requires affordable, quality child care. Millions of American women have full-time jobs outside the home. Three of five mothers with children under six are working to meet their obligations to their children and their employers. Juggling those responsibilities is even more difficult when quality child care is either hard to find or too expensive to afford.

That's why I've included in my balanced budget a significant new investment in child care. I urge Congress to join me in making child care better, safer and more affordable for those who need it.

To help parents find the best care for their children,

today I'm releasing a report by the Department of Health and Human Services. It's a consumer guide to child care quality that recommends four steps for parents: One, interview the potential care-givers; two, check the references; three, evaluate how the care-giver meets your child's needs; and four, stay involved. As Mother's Day reminds us, governments don't raise children, parents do. There is no substitute for a mother's love or a parent's responsibility.

We, too, in the national and state governments, however, have a responsibility; a big one is to protect America's children from abuse and neglect. Nothing gives mothers peace of mind like the knowledge their children are in safe hands. Today I'm also releasing a new Justice Department set of guidelines for screening child care workers and other care-givers; and again, I urge Congress to act on a proposal I put forth to facilitate background checks on child care-givers. There is strong bipartisan support for this proposal, and I'm hopeful that members of both parties will move quickly to give America's children the care they deserve.

There is one other thing I'd like to talk about that we must do to protect our children. Fathers must take their share of responsibility, too. Children deserve to be raised by both parents, but when that's not possible, children must still receive the support they need. The unfortunate division of families cannot mean the end of child support. That's why we have worked so hard to toughen enforcement of child support laws; and, since 1992, we've raised collections by 68 percent a year.

We've worked too hard for too long toughening enforcement of child support laws to let our progress be accidentally undone. But that could happen if Congress goes ahead with one part of bankruptcy reform legislation now under consideration. I'm willing to work with Congress to pass responsible and fair bankruptcy reform. However, under one leading proposal, when a father declares personal bankruptcy, a mother may have to compete with powerful banks and credit card companies for the money they're owed. That's not the law now, and if that competition starts we all know who will lose the contest -- our children.

Parents have to step up to their responsibilities, and so does Congress. Some changes to consumer bankruptcy laws are in order, but mothers and children should keep their priority under the child support laws. They shouldn't have to stand in line for the support they need.

America's mothers hold a special place in our hearts. In return, we owe them the love and respect they have given us. On Mother's Day, we do so with cards, bouquets, and gifts. But today and every other day, we should also do everything in our power to give our mothers the peace of mind they deeply deserve.

Thanks for listening.

END



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Morally Bankrupt Creditors

By David S. Broder

Sunday, May 16, 1999; Page B07

Politics, as everyone knows, makes strange bedfellows. But it still raises eyebrows -- and suspicions -- to discover Hillary Rodham Clinton and Henry Hyde making common cause on the bankruptcy bill that passed the House on May 5 and is scheduled to be up for debate in the Senate this week.

A year ago, when similar legislation was close to final approval on Capitol Hill, the first lady sounded the alarm inside the White House and a veto threat from the president stopped it cold. When it was revived earlier this month in the House, Hyde, the chairman of the Judiciary Committee and leader of the effort to impeach and remove President Clinton, found himself in the odd position of repeating some of her arguments.

Conscious that he was in strange company, the veteran Illinoisan explained, "I am as capitalist as anybody, but it does not seem to me when there is a bill that is truly tilted toward the creditors, that giving a little flexibility for living standards for people who are bankrupt is a violation of one's credentials as a conservative."

Hyde had made the same argument in committee, recounting some of the "75 enhancements here for the creditors" and pleading with his colleagues to "throw a little, small bone to the debtor." But his amendment was defeated by what he called the "awesome creditor lobby" led by the banks that control the credit card market.

The complexities of bankruptcy law are beyond my understanding, but the odd alliance between Hyde and Hillary -- who argued inside the administration that the legislation might give the issuers of plastic as much claim to a bankrupt worker's earnings as his ex-wife or their children -- is not the only signal that this legislation may deserve more scrutiny than the press has given it so far.

There's also the fact that the members of the National Conference of Bankruptcy Judges endorsed Hyde's amendment, as did Brady Williamson, the chairman of the bankruptcy law reform commission, and major consumer groups.

They all admit there is a problem in the explosion of bankruptcy cases in this decade. Last year, more than 1.4 million Americans filed for individual bankruptcy, seeking legal protection against their creditors. That is almost a threefold increase in 12 years.

No one disputes that among these cases, there are a number of people -- the estimates range from 4 percent up to 15 percent -- who could, if pressed, pay off some of their debts. A few of them are the publicized wealthy individuals who run up big bills for luxuries, then put all their assets into lavish homes in states with high homestead exemptions and laugh when their creditors try to collect.

It is only these cases the bankers and retailers say they want to reach, by making it harder for people to file under Chapter 7, which basically lets you wipe out your debts and start clean, and forcing them instead to file under Chapter 13, which requires repayment of at least some debts over a period of up to five years.

But statistics show most of the Chapter 7 filers are people with modest incomes who just get in over their heads. The fastest-rising category of debt is in revolving credit card accounts, and the banks that dominate that business have been the most aggressive lobbyists for tightening the bankruptcy law.

But they have been at least as aggressive in marketing their cards, mailing out an incredible 3.45 billion -- not million but billion -- solicitation letters last year. Beth Climo, a spokeswoman for the American Bankers Association, told me that since the banks underwrite these loans, they are careful about issuing credit.

But Elizabeth Warren, a Harvard Law School professor who has studied this issue, countered that banks make so much money on unpaid credit card balances -- thanks to interest rates much higher than on home mortgages, car loans or other forms of "secured" debt -- that they deliberately lure people into borrowing beyond their means. Now, she said, they are trying to get Congress to rig the rules so their loan losses will be reduced.

Critics of the legislation say it should at least force the credit card bankers to include more specific consumer warnings on the monthly bills, telling customers, for example, how many months (or years) it will take them to pay off the outstanding balance if they make only the minimum required monthly payment. But disclosure provisions in the House bill are modest -- and in the Senate version, almost nonexistent.

After his amendment was defeated, Hyde voted for final passage of the bill, expressing the hope that it will be improved in the Senate. But the Clinton administration -- with Hillary Clinton riding herd -- is demanding big changes and threatening a veto.

This one bears watching.

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Opinion

SUICIDE • BANKRUPTCY

The more money they want to make,
the more math they'll need to take

— Columnist Joanne Jacobs,
on students' education choices

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Deeper in debt

Bankruptcy legislation
unfairly focuses on
consumers; the credit
industry bears some
responsibility, too

WE'RE all in favor of personal responsibility. But we're also in favor of corporate responsibility. That's why we're opposed to the current effort in Congress to change bankruptcy laws to make life more difficult for debtors.

Large banks, pointing at the meteoric increase in personal bankruptcy filings over the past several years, have persuaded the House of Representatives to approve legislation making it harder for individuals to abandon their debt.

We agree that when people have made a mess of their finances, they should make a good faith effort to pay back what they owe. Most do. This bill would impose harsh new conditions on people whose financial distress is often a result of bad

luck compounded by poor judgment.

The picture the banks paint of bankruptcy filers is people who max out their credit cards on luxuries and then casually file for a "bankruptcy of convenience." What happens more often is that middle-class families with sizable debt but also sizable income find themselves overwhelmed when a divorce or job loss cuts off the cash flow.

Currently, a bankruptcy judge evaluates a debtor's ability to pay off what is owed and establishes a payment plan, including which bills should be paid first. The House bill establishes a rigid "means test" and takes away the judge's discretion as to whom should be paid, and how much.

A means test is not a bad idea to standardize the treatment of debtors, but it should be flexible enough to fit different circum-

stances. For instance, currently judges often say child support should be paid first. Under the new rule, other debts would have equal claims, no matter what a family's circumstances.

The White House describes this legislation as "inflexible and arbitrary." Even House Judiciary Chairman Henry Hyde of Illinois, a Republican, said the bill gives too much to creditors, without adequate consumer protections. A middle ground should be found.

The financial industry takes advantage of human nature by constantly tempting people to get more cards and carry more debt. Sometimes lenders even penalize card users who pay off the entire balance every month. They shouldn't be rewarded by Congress with a crackdown on the predictably high number of people who give in to temptation.

Numerous amendments to the

legislation are expected in the Senate, and if it's not made more consumer-friendly, President Clinton is expected to veto it. That would be appropriate.

Rather than attacking borrowers, the banking industry should lead the way toward financial responsibility. It should cut back on unsolicited credit card offers; stop extending credit to unemployed college students and others with few resources; and make it clear in every credit card bill how long it would take to pay off the balance at the minimum rate, and how much money would be paid for interest.

Personal bankruptcy filings are at alarmingly high levels — 1.4 million in 1998 alone. It should not be easy to walk away from all debts — but neither should it be as easy as it is to get into debt. Congress is taking an unnecessarily punitive approach.

Editorial

The opinion
of the
Mercury
News

LOS ANGELES TIMES EDITORIALS



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Bankruptcy Non-Reform

The credit card industry has hijacked efforts to reform bankruptcy laws. The House and Senate bills needed for floor votes are clothed cleverly in the rhetoric of reform; and change is certainly needed. But in reality they would significantly weaken protections for truly needy debtors and leave unchanged gaping loopholes in the law that savvy—and typically wealthy—filers use to put up the shield of bankruptcy to thwart creditors and lawsuits.

Bankruptcy judges, legal scholars and consumer groups are raising objections, yet Congress seems intent on ramming through brightly flawed and sweeping changes in the complex law of bankruptcy. Virtually none of the recommendations from the 1997 congressional National Bankruptcy Review Commission are included.

With consumer bankruptcy filings rising to a new high despite a robust economy, the credit card industry claims that too many consumers are simply avoiding their debts by seeking refuge from creditors under bankruptcy laws. The industry mistakenly presumes that filers are simply deadbeats abusing the law. In fact, most consumers file for bankruptcy only as a last resort after suffering some major setback, such as job loss or massive medical bills.

Historically, personal bankruptcies rise and fall with the level of consumer debt per household. Credit card companies have been a major source of easy credit, especially for low-income consumers, and helped boost consumer indebtedness. In 1998, the average person who filed under Chapter 7, which eliminates all debts, had an after-tax income of \$19,800 and credit card debt of \$17,544.

Credit card issuers are unwilling to take into account—and assume full responsibility for—their aggressive and injudicious extension of credit. Instead they and their skilled Washington lobbyists have managed to get bills that would, for the first time, apply means testing so that consumers with incomes above \$50,000 would be prevented from seeking protection under Chapter 7 and forced to arrange at least partial payments. But high-income filers who can afford lawyers can still shield assets, because the bills do not change existing loopholes that allow, for instance,

the transfer of assets to trusts.

Most disturbing are provisions that enable creditors to challenge any Chapter 7 filing, regardless of the consumer's income. Just as outrageous, unsecured credit card debt would be reclassified as a non-dischargeable debt, in the same category as

child support, alimony and taxes. Women could have a harder time collecting child support if their ex-husbands had to decide between meeting family obligations or sending off aggressive collection agents.

The House and Senate bills do nothing to root out real abuse at the high end and would give creditors undue leverage over low-income consumers. They also would add new complexity and costs. This is no reform, and consumers should let lawmakers hear about it.

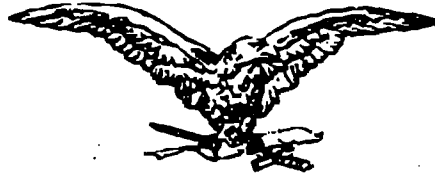
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Proposed changes would weaken protections for truly needy debtors and leave unchanged gaping loopholes that wealthy filers use to put up the shield of bankruptcy.

A16

FRIDAY, MAY 7, 1999/NA

LOS ANGELES TIMES EDITORIALS

MARK H. WILLES, *Publisher*KATHRYN M. DOWNING, *President and Chief Executive Officer*MICHAEL PARKS, *Editor and Executive Vice President*JANET CLAYTON, *Editor of the Editorial Pages and Vice President*

One for the Creditors

The House of Representatives Wednesday overwhelmingly approved legislation to restructure what many believe is the country's overly permissive bankruptcy law. The 150-page bill takes a huge step toward eliminating abuse of the bankruptcy process by irresponsible debtors. But, in so doing, it missed the point of balance and turned into what Rep. Henry J. Hyde (R-Ill.) called "a great bill for creditors." The best way to restore some sense of balance in the legislation is to soften the rigid formula for debt repayment and give the bankruptcy courts greater discretion in judging individual cases.

Court figures show that, despite the country's economic prosperity, a record 1.4 million people filed for bankruptcy in 1998, an increase of 20% from the previous year. Most people file under Chapter 7 of the Bankruptcy Code, which allows them to wipe out unsecured credit card debts without much challenge from the creditors. But that does not mean that a large number of people filing for bankruptcy are either fraudulently or irresponsibly trying to avoid repayment of their debts. A study commissioned by the independent American Bankruptcy Institute in Alexandria, Va., showed more than 96% of those who filed for bankruptcy did not have the income to fully repay their debts. Only 3.5%, or fewer than 40,000 of the 1.4 million debt-

ors, had repayment capacity. That clearly shows the existing law does not invite widespread abuse.

Just as clearly, however, the decisive 313-108 House vote—in which half the Democratic representatives voted yes—shows very little sympathy for those who don't pay their bills at a time of record low unemployment.

Would people have no sympathy for those who truly cannot repay their debts regardless of how well they manage their finances? We doubt it. To those debtors, the House bill is unfair. It is so loaded with pro-creditor provisions—75 by Hyde's count—that

The best way to restore balance in the bankruptcy legislation is to soften the rigid formula for debt repayment and give the courts greater discretion.

it swings the bargaining power entirely in favor of the creditors. All the creditor will need to do is simply threaten to unleash all the new legal weapons and entangle debtors in costly litigation to discourage even the most meritorious bankruptcy filings.

Banks and credit card companies lobbied hard to defeat an amendment that would have eased the formula for cutting debtors off from the bankruptcy courts by giving judges some discretionary power in individual cases of hardship. They believe bankruptcy judges tend to favor debtors.

But a little compassion is exactly what's missing in this legislation. The Senate, which is expected to take up the measure later this spring, should introduce an amendment that dispays some.

Date: 05/12/98 Time: 17:13

With first lady sounding alarm, House panel drafting bankruptcy

WASHINGTON (AP) With Hillary Rodham Clinton warning that it could harm children of single parents, the House Judiciary Committee on Tuesday prepared to draft far-reaching legislation to rewrite the nation's bankruptcy laws.

Rep. Bill McCollum, R-Fla., told the committee the House bill was "pro-family" because it would help people with good credit records by cracking down on debtor abuse and thereby lowering interest rates for credit cards.

But Rep. Jerrold Nadler, D-N.Y., said the measure would result in "ruined lives, lost homes, broken families."

As the legislation moves through the House and Senate, some Democrats, consumer and labor groups are trying to slow the process. They are calling attention to a provision that, they contend, would make thousands of mothers and children owed support take a back seat to credit card companies in collecting debts from fathers who file for bankruptcy protection.

The provision "is a killer part of this bill," Sen. Christopher Dodd, D-Conn., told a news conference.

Dodd and 30 other senators, mostly Democrats, have written Senate Judiciary Committee Chairman Orrin Hatch, R-Utah, expressing concern. Also signing the letter were Republican Sens. James Jeffords of Vermont, Alfonse D'Amato of New York and John Chafee of Rhode Island.

While the bankruptcy laws need to be revised, they wrote, the legislation in its current form would have "a strong and disproportionate effect" on single parents and their children by putting certain types of credit card debt on the same level of priority as child support and alimony payments.

Hatch has not yet commented on the letter. The Senate Judiciary Committee is scheduled to draft its version of the legislation on Thursday.

Mrs. Clinton, in her column last week in the Washington Times newspaper, said she had no quarrel with "responsible" bankruptcy overhaul legislation.

"But I do quarrel with aspects of the bill that would force single parents to compete for their child-support payments with big banks trying to collect credit card debt," she wrote. "The welfare of our children must come first."

President Clinton reprised the idea in his weekly radio address Saturday on a Mother's Day theme, saying some changes to bankruptcy laws are in order, but "mothers and children should keep their priority."

As they grapple with bankruptcy legislation, lawmakers are alarmed by the rising number of debtors in a strong economy. The number of Americans filing personal bankruptcies last year jumped to 1.2 million up more than 300 percent since 1980 intensifying criticism that people take court protection from creditors too lightly.

Of those 1.2 million cases, some 300,000 involved court orders for child and spousal support, according to Dodd.

Under the House and Senate bills, credit card debt incurred 90 days before an individual files for bankruptcy would be considered nondischargeable, meaning it couldn't be erased or written down. Child support and alimony, federal taxes and student loan debts are nondischargeable under current law.

The Democrats contend that would hurt children because nondischargeable debts are considered the most important to pay and usually get paid first, forcing single mothers to compete for payment with credit card companies.

But Rep. George Gekas, R-Pa., chief sponsor of the House measure, disputed that, saying child support would continue to have a higher priority.

"Child support and alimony are priority debts," he said. "If you are keeping score, that is children one, creditors nothing."

A coalition of banking industry groups and credit card companies said recently they would be willing to accept a provision that would explicitly establish the priority of child-support payments.

But Jeffords said Tuesday that would not be sufficient, since big commercial creditors "have so many more weapons and ways they can dun people" for payments.

In another area, Gekas' bill would establish a "needs" test to determine how much debt relief people should receive and how much they are able to repay a provision to which many Democrats and some Republican senators have objected.

The Senate measure proposed by Sens. Charles Grassley, R-Iowa, and Richard Durbin, D-Ill., seeks to prevent people who can afford to pay their debts from escaping them. But it also includes tough new fines for abuse by creditors who try to intimidate or harass consumers into giving up their legal protections.

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EDUCATION

Ivory Tower Inc.: When Research and Lobbying Mesh

By ROBERT CWIKLIK

Staff Reporter of THE WALL STREET JOURNAL

With consumer bankruptcies reaching a record 1.3 million in 1997, it isn't surprising that a bankruptcy study issued last fall by Georgetown University's Credit Research Center would get prominent airing on Capitol Hill, where lawmakers are debating changes in federal bankruptcy law.

Offered as evidence that many debtors abuse the law to wiggle out of their obligations, the study has been an effective tool for credit-industry lobbyists and their allies in Congress, who have brandished the Georgetown name on op-ed pages and at hearings.

But the study's provenance is a bit more complicated than its academic imprimatur suggests. The center that issued the research is supported entirely by credit-card companies, banks, retailers and others in the credit industry. The study itself was produced with a \$100,000 grant from Visa U.S.A and MasterCard International Inc.

Georgetown's Credit Research Center is one example of a little-known but rapidly proliferating hybrid on the nation's campuses: research centers funded by, and working at the behest of, big corporations and industry groups. In the area of science and technology alone, more than 1,000 such centers existed in 1990, up from about 700 in 1980, according to a recent Carnegie Mellon University study funded by the National Science Foundation.

The federal government has encouraged these centers to maintain U.S. global

Scholars and Dollars			
Some corporate-funded research centers on U.S. campuses:			
CENTER	AFFILIATION	1998 BUDGET	FUNDING
Credit Research Center	Georgetown University	\$450,000	Primarily by consumer-credit industry
Transportation Research Institute	University of Michigan	\$13 million	45% by auto industry
Center for VDT and Health Research	Johns Hopkins University	\$500,000	IBM, Apple, Compaq, Digital
Johnson Controls Inst. for Environ. Quality in Architecture	University of Wisc./Milwaukee	\$220,000	Primarily by Johnson Controls Inc.

Source: The centers

competitiveness in research and development. Universities have welcomed corporate dollars to help offset waning public-sector funding of higher education.

But some of their work seems designed simply to sway public opinion toward a corporate sponsor's commercial or political ends. One example: The University of Maine's Lobster Institute in Orono, heavily subsidized by the seafood industry, did a study a few years ago purporting to show that lobsters don't suffer when boiled alive.

A study from a university center "has an aura of legitimacy that it would not have if it were produced by the company itself," asserts Lawrence C. Soley, professor of communications at Marquette Univer-

sity in Milwaukee and author of a book about corporate influence on campus. "It would be viewed as public relations if they produced it themselves."

The Credit Research Center, founded in 1974 at Purdue University in West Lafayette, Ind., moved last year to Washington, where it operates under the auspices of the Georgetown School of Business. Its nine-member governing board includes four credit-industry executives and five academics, including director Michael Staten, an economist and professor at the business school. Industry representatives make up more than 70% of the center's advisory council, a group that Dr. Staten calls "a Who's Who of credit granters." And in-

dustrial dollars supply almost all of the CRC's \$450,000 annual budget, including Dr. Staten's salary.

Dr. Staten co-authored the center's Visa-MasterCard study with John M. Barron, a Purdue economics professor who sits on the CRC's governing board. Their conclusion: About one-fourth of Chapter 7 bankruptcy filers can afford to repay at least 30% of their unsecured debt, a type that includes unpaid credit-card balances.

Their findings just happen to dovetail neatly with the credit industry's longstanding effort to make it harder to file for Chapter 7 bankruptcy relief, whereby many debts are wiped from the books. Credit-industry lobbyists argue that current law protects deadbeats who could readily afford to repay more.

The industry has touted the CRC study while lobbying for a House bill authored by Republican Rep. George W. Gekas of Pennsylvania. It would impose a "means test" on bankruptcy filers and force those with incomes above a certain point into Chapter 13 debt-repayment plans.

Chapter 13, currently voluntary, is generally used by those looking to protect assets from liquidation. Unlike Chapter 7, it doesn't wipe out credit-card debt. A Senate bankruptcy bill would give courts discretion to impose Chapter 13. Both measures are expected to come up for a vote later this month.

Rep. Gekas, whose bill has 75 co-sponsors, is expected to move forward. Please Turn to Page B14, Column 6

Ivory Tower Inc.: When Research Work And Lobbying Mesh

Continued From Page B1

sors, has said the CRC study "undeniably and definitively made it clear" that some bankruptcy filers "are taking full advantage of the system."

Others, however, find the study far less persuasive. General Accounting Office analyst Richard Stana calls some of its assumptions "arguably a best-case scenario for the industry." Another with misgivings is Robert E. Ginsberg, a U.S. bankruptcy court judge in Chicago who served as vice chairman of the National Bankruptcy Review Commission, created by Congress in 1994 to recommend changes in the law. "They seem to consistently come out with what the industry is arguing for," Judge Ginsberg says of the center.

The study's authors deny any such credit-industry bias. Dr. Staten explains that while corporate sponsors may commission studies, the center's academic staff designs and conducts the research. If sponsors don't like the results, they can't kill the project. "That's what makes us different from a consulting firm," he says.

Kasra Ferdows, acting dean of Georgetown's business school, says the bankruptcy study "meets our general rules" for good research. But he stresses that it represents its authors' views, not the university's, and is "just one piece of research."

Some means-test opponents argue that credit-card issuers have contributed to the rash of bankruptcies by pushing credit on high-risk borrowers. They question how much more money creditors can expect to squeeze from overextended debtors. The CRC study is "propaganda," says Gary Klein, a bankruptcy specialist for the Boston-based National Consumer Law Center. Means-test supporters have aggressively promoted it "as if it were scientific proof of debtors' ability to pay," he adds.

In testifying before the House and Senate in support of means testing, Dr. Staten took pains to mention the industry funding of the CRC study. Other means-test proponents haven't been so forthcoming.

In a November 1997 letter to The Wall Street Journal, Visa U.S.A.'s director of public affairs, David Sandor, griped that bankruptcy filers are "allowed to walk away from their debts." As evidence, he pointed to the study by the "Credit Research Center at Georgetown University," without spelling out its industry ties.

In a Washington Times opinion-page article in September, former Treasury Secretary Lloyd Bentsen also invoked the study's university credentials. But he failed to mention its funders—or his own role as a credit-industry lobbyist.

Visa's Mr. Sandor says his omission was inadvertent and insignificant, because credit-industry support for the CRC study had been "part of public discourse" for some time. Mr. Bentsen's secretary says he is recuperating from a stroke and unavailable to comment.

Some academics argue that universities could do more to assure the objectivity of corporate-sponsored research that touches on matters of policy. Joseph Nye, dean of Harvard's Kennedy School of Government, advocates submitting such studies to a process "pretty close to peer review," whereby independent scholars examine a study's methodology before clearing it for publication in academic journals.

CRC studies are reviewed by academics on its own governing board and advisory council, Dr. Staten says. The bankruptcy study wasn't published in a peer-reviewed journal, but its authors say they plan to submit articles based on the research to such a periodical.

At the request of senators of both parties, the GAO also reviewed the CRC study. The agency criticized its methods at length and questioned "the accuracy and usefulness" of its conclusions.

The GAO quarreled with the assumption that bankruptcy filers' incomes and living expenses would remain stable for five years. Such assumptions produced "optimistic estimates of debtors' repayment capacity," the agency said.

It noted that most Chapter 13 plans last three years rather than five, and that just 36% of filers currently manage to complete them. This shows the "high level of discrepancy" between the study's assumptions about repayment potential and "what has actually occurred," the GAO stated.

Not all filers who quit Chapter 13 plans do so because they can't afford to pay, Dr. Staten argues. Richard Jones, a MasterCard vice president, points out that the GAO also praised the center's study as "a good first step." The GAO "did not disagree with the findings," he contends, "but said some of the claims need to be validated."

In academia, research centers such as the CRC that are subsidized by a single industry raise the most hackles. Such arrangements "should attract the attention of any thinking administrator," says Albert Carnesale, chancellor of the University of California at Los Angeles.

The CRC counts 60 or 70 companies among its credit-industry funders, according to Georgetown's Dean Ferdows. He says that gives him "some comfort" that no single corporate interest will exercise undue influence.

The CRC is hardly the only center with single-industry funding. Another is Maguire Oil & Gas Institute at Southern Methodist University in Dallas, established with a grant from Cary M. Maguire, chairman of Maguire Oil Co. It holds seminars and disseminates information about the industry, whose representatives occupy 20 of the 23 seats on its advisory board.

In July, Maguire held an all-expenses-paid seminar for professors from around the country. Its keynote presentation was titled: "Efforts to improve the public's perception of the oil and gas industry." Allen Mesch, the institute's director, says it tries to present balanced programs and isn't an advocacy group. "There are trade associations to do that," he says.

Mrs Clinton -

FYI re: Bankruptcy & The 106th Congress.
Noreen

February 3, 1999

National Journal's CongressDailyAM 15

106th Congress Revisits Unfinished Bankruptcy Debate

FINANCE

LEGISLATION TO LIFT Depression-era

barriers separating the banking, securities and insurance industries was not the only finance-related reform that failed to achieve passage in the 105th Congress: Also left half-done when Congress adjourned in October was a rewrite of the bankruptcy code.

Spurred by the record number of debtors filing for bankruptcy over the last few years — along with an active lobbying campaign by credit card companies and other lenders — legislation overhauling bankruptcy laws and making it tougher for people to walk away from their debts garnered strong support in the House and Senate during the last Congress.

However, the versions of the legislation passed by the two chambers were sharply different in tone and substance — which, along with a time

crunch in the Senate, ultimately contributed to the bill's undoing.

Both the House and Senate bills adopted a needs-based approach to bankruptcy. But while the House bill imposed a rigid economic standard on all prospective consumer debtors, the Senate version allowed for judicial review and a case-by-case determination of a consumer's ability to repay debts.

Democrats largely viewed the Senate bill as more consumer-friendly than the House bill, which found strong favor among business and creditor groups. A conference committee report reconciling the two bills was considered too stringent by the White House and Senate Democrats.

Sources said the differing meanstest approaches will again figure prominently in the debate on bankruptcy.

Toward the close of last session, the House voted overwhelmingly — 300-125 — to approve the conference

report. But in the wake of a White House veto threat, Senate leaders abandoned efforts to bring the bankruptcy reform conference report up for floor consideration — thus bringing an end to one of the most controversial legislative battles of 1998.

However, many supporters of bankruptcy reform believe the momentum from the 105th Congress and strong support for reform among House and Senate Republicans provide hope for action in the 106th Congress.

Indeed, given that both House and Senate Republican sponsors of the legislation — **Senate Judiciary Administrative Oversight and the Courts Subcommittee Chairman Charles Grassley**, R-Iowa, and **House Judiciary Commercial and Administrative Law Subcommittee Chairman George Gekas**, R-Pa. — have retained their chairmanships, some see reform as inevitable this time around. *continued on page 16*

Nicole - Have we established
working relationship
w. Th. Sen. Towell's
staff?

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Bankruptcy

Continued from page 15

At the very least, Grassley and Gekas are expected to push hard to pass legislation, and proponents are urging the new Congress to act early and use the conference agreement as the blueprint for a new bill.

Michael McGarry, public affairs director for Visa, said he believes "prospects are very good that it will move very quickly early on. The heavy lifting was done in the 105th Congress."

In the Senate, a Republican leadership source said that bankruptcy reform likely will be given priority treatment in this Congress. The House and Senate both are expected to use legislation modeled after last year's conference agreement as a starting point.

But some reform proponents, such as Independent Bankers Association of America lobbyist Robin Jackson, seemed less certain about the prospects of using the conference report as a blueprint.

"This is the million dollar question right now. Who knows?" she said. Citing last year's lopsided roll call votes in the House, Jackson said a bill would move rapidly in that chamber, "but we do think it could be a problem in the Senate."

In the 105th Congress, Grassley worked closely with Sen. Richard Durbin, D-Ill., then the ranking member of the subcommittee, to produce a bill that was amenable to the White House. The full Senate subsequently voted 97-1 to approve that measure, which included compromises moving the bill toward the Democratic position.

But as the House-Senate conference committee negotiations proceeded, Durbin and House Democrats complained of being locked out of the process. Durbin subsequently grew less committed to the bill and ultimately opposed the conference agreement — which stripped away many of the compromises.

Henry Sommer, a board member of the National Association of Consumer Bankruptcy Attorneys — which supported last year's Senate bill — re-

marked, "[The conference agreement] was pretty much the worst of both bills."

Durbin has since left the Judiciary panel to take a seat on the Appropriations Committee, and it is uncertain whether the dissension that marked the tail end of last year's negotiations will set the tone for relations between Grassley and Durbin's successor as ranking member on the Administrative Oversight and Courts Subcommittee — at presstime expected to be Sen. Robert Torricelli, D-N.J.

And new Senate Banking Chairman Gramm also stands to significantly influence this Congress' bankruptcy debate. The Senate Banking panel has jurisdiction over aspects of bankruptcy legislation, including those dealing with consumer-oriented protections and disclosure.

Despite Gramm's protestations to the contrary, many believe he will not

be especially receptive to consumer needs — especially after having witnessed his attempts to derail last year's financial services modernization legislation over what he perceived as the Democratic-led expansion of the Community Reinvestment Act.

And while former Senate Banking Chairman D'Amato last year did not opt to assert his jurisdiction in the bankruptcy discussion, observers doubt Gramm will follow suit, and his involvement is expected at least to make the negotiations more challenging.

Moreover, this year's bankruptcy debate will again examine a cap or time constraint on homestead exemptions — a particularly sensitive issue in Gramm's home state of Texas, which currently imposes no cap on homestead exemptions and perceives the ability to preserve that exemption as a major states' rights issue.

INTERESTED PARTIES

Nonpartisan:

■ American Bankruptcy Institute.

Mana Zarinejad, public affairs coordinator, (703) 739-0800.

Debtor advocates:

■ Consumer Federation of America.

Mary Rouleau, legislative director, (202) 387-6121.

■ Consumers Union.

Frank Torres, legislative counsel, (202) 462-6262.

■ National Association of Consumer Bankruptcy Attorneys.

Maureen Thompson, Washington representative, (703) 276-1116.

■ National Consumer Law Center.

Gary Klein, bankruptcy specialist,

(617) 523-8010.

Creditors:

■ American Bankers Association.

Patricia Cinelli, public relations manager, (202) 663-5468.

■ American Financial Services Association.

Jeff Tassey, government and legal affairs senior vice president, (202) 296-5544.

■ America's Community Bankers.

Bob Schmermund, communications director, (202) 857-3100.

■ Bankruptcy Issues Council.

Michael McGarry, Visa International public affairs director, (202) 296-9230; William Binzel, MasterCard International government relations vice president, (202) 789-5960.

■ Consumer Bankers Association.

Jim Febeo, staff attorney, (703) 276-3883.

■ Credit Union National Association.

Mark Wolff, communications senior vice president, (202) 682-4200.

■ Independent Bankers Association of America.

Jenny Bavisotto, communications director, (202) 659-8111.

■ National Association of Federal Credit Unions.

Murray Chanow, legislative affairs associate director, (703) 522-4770.

■ National Retail Federation.

Mallory Duncan, general counsel/vice president, (202) 783-7971.

THE WHITE HOUSE
WASHINGTON

Nicole -

Her article

I mentioned.

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Charged Up

Credit Cards Invade A New Market Niche: The Mentally Disabled

Some Just Can't Say No;
Lenders Can't Either—
By Law in Some States

Mr. Swan's Song of Trouble

By JOSEPH B. CAHILL

Staff Reporter of THE WALL STREET JOURNAL

An estimated 887,000 mentally disabled adults live on their own in the U.S., and they struggle to develop skills that most people take for granted—holding down a job, navigating public transportation and counting change from a purchase.

Increasingly, however, the retarded confront the need for certain skills that are a challenge for many mentally competent people: the self-restraint and tactical rudeness required to fend off the barrage of telemarketing, junk mail and television come-ons offering easy access to credit cards. As the credit-card industry, hungry for growth, pushes deeper into lower-income groups for new customers, there is an inevitable collision between the sharp-elbowed world of modern consumer credit and some of society's most trusting and vulnerable citizens.

No one argues that mentally retarded people should be prohibited from receiving credit cards, and in fact many can handle credit, although often it takes supervision from family or friends. But the saturation marketing of credit cards coincides with a mental-health movement that has resulted in increasing numbers of mentally retarded adults living more independently.

One of the unintended consequences of the confluence of those two forces: Growing numbers of retarded people, who tend to be both poor and poor at managing money, are landing plastic and getting into debt problems that can rock an independent life carefully constructed with the help of family and social workers. The situation presents dilemmas for card issuers, too: Discriminating against mentally disabled people in lending is illegal in some states, and some issuers say it's unfair to treat mentally retarded people any different from other consumers when they get in over their heads.

Scott Swan's parents were shocked to discover earlier this year that their 38-year-old son, mentally disabled since a car accident at age three caused brain damage, had run up a total of \$17,000 in balances on Citibank Visa, Discover and Sears cards. Mr. Swan takes home \$700 a month as a janitor at a Des Moines, Iowa, grocery store, and had no chance of keeping up with the minimum combined monthly payments of \$315 on his credit cards.

"I was just sick at heart," says his mother, Marjorie Swan. "I wondered, 'How are we ever going to get him out of this?'"

Maxing Out

Mr. Swan, who has lived in his own one-bedroom apartment for nine years, watches a lot of television, and beginning about four years ago, he began getting cards by dialing toll-free numbers offering plastic. He became an avid buyer of merchandise advertised on television and through telemarketers. The card issuers routinely bumped up his credit limits, as he paid a little more than the monthly minimum, until he was swamped by bills.

The pattern is typical of the mentally disabled adults who in increasing numbers are having debt problems, say social workers and others who work with the retarded. No national figures are kept on the problem. But, says Mark Albrecht, a counselor with Arizona's Division of Developmental Disabilities in Tucson, "We've had lots of people get into big messes."

Often lonely and trusting, the mentally disabled tend to believe that every telemarketing call is a sincere act of friendship, experts say. They frequently agree to buy out of deference to perceived authority or to hide a lack of comprehension. Says Mary Hayden, research director at the Institute on Community Integration at the University of Minnesota, "They tend to say yes."

Norman and Edith Braley of Bangor, Maine, filled out a credit-card application four years ago at a Sears store, "to get a free prize," says Mr. Braley, 56. He and his wife, who is 66, are both mentally disabled and were confined to institutions from childhood through middle age. "If you spend five minutes with them, you know something is wrong," says Bonnie Jean Brooks, head of a social-service agency that helps the Braleys. They live on \$900 a month from disability payments and Mr. Braley's lawn-mowing jobs.

Dialing for Dollars

A few months after getting the Sears card, Mr. Braley called a toll-free number in response to a TV ad and landed a MasterCard from Fleet Bank of Boston. Suddenly, the Braleys felt they could spend like normal consumers. They bought watches, a lawnmower, a pool cue. The priciest item: a \$320 gold ring. "I bought that for my wife, Edie," Mr. Braley says.

The Braleys soon owed \$2,500 and had no way of paying. Sears stopped trying to collect its \$1,645.10 and won't comment on the account. A spokeswoman says, however, that Sears has forgiven the debts of some mentally disabled borrowers. Fleet assigned its \$939.16 account to Coldata Inc., a New York collection agency. It gave up earlier this year, and Fleet forgave the debt after The Wall Street Journal inquired about the Braleys.

Of course, some mentally disabled people handle credit well. Much depends on

Please Turn to Page A6, Column 1

Credit-Card Issuers Mine New Niche: the Mentally Disabled

Continued From First Page

the degree and nature of the disability. Lisa McCaslin, 36, a mildly retarded woman living in Prescott, Ariz., keeps the balances low and the payments current on her Visa card and several store charge cards. But Ms. McCaslin lives with her mother, who watches her spending and bills closely. "I would be very hesitant to let her have cards on her own," says her mother, Jean McGuire.

In an earlier era of banking, getting a loan typically required a face-to-face meeting. That had a certain moderating effect. Mr. Swan of Des Moines, for instance, plainly appears to be mentally disabled, speaks in a droning monotone, reads at fourth-grade level and has a hard time with numbers. Together with his low income, a lender meeting Mr. Swan probably would conclude that he wasn't a good credit risk—and might well question whether a loan would be good for the customer.

"Responsibility is a two-way street," says Kathleen Keest, an assistant attorney general in Iowa who specializes in consumer lending issues. Ms. Keest asserts that the nation's raucous free market in consumer lending has lost sight of "the distinction between productive credit and destructive debt."

Face-to-face lending, of course, is an outdated concept. Consumer lending these days is a vast by-the-numbers marketing machine. Three billion mail solicitations are sent out by credit-card companies each year, along with countless telemarketing calls and television ads.

The industry doesn't have any broadly accepted guidelines for dealing with the mentally disabled. Special policies, lenders say, could smack of discrimination. As a practical matter, it would be virtually impossible to gauge where to draw the line because of the wide variations in the level of mental disabilities: Is someone with an IQ of 90 credit-worthy, but someone with an IQ of 85 not?

Beyond that, Connecticut, Illinois and

several other states include the mentally disabled in laws barring discrimination in lending. But the federal Equal Credit Opportunity Act doesn't cover the mentally disabled. Advocates for the handicapped say they're not aware of lawsuits applying the federal Americans With Disabilities Act to credit issues.

Policy Limits

"Even with a with a well-intentioned policy, we could do more damage than good by limiting access to credit for people who may have mental disabilities but need credit to live a normal life," says Pam Lloyd, director of credit-card marketing at Citibank, a unit of Citigroup.

Nor is there any accepted industry theory on how issuers should deal with people they learn are mentally retarded after the borrowers get in trouble. Kathleen Berntsen, St. Paul, Minn., describes her condition as "slow learning." She says she has trouble with math, "especially dollars and cents."

After receiving pre-approved offers from Discover and Citibank about five years ago, she went on a credit-card buying binge that left her \$4,000 in debt within months. A roommate at the time added to Ms. Berntsen's debts by charging purchases around town. Ms. Berntsen didn't have much income, but she owned a small bungalow, inherited from her parents. She refinanced her debts through a series of "bill-consolidation" loans that grew into a \$54,000 mortgage on the home.

She fell behind on the \$600 monthly payments. Collection efforts ensued, and Ms. Berntsen, confused, worried that she would be "going to jail."

The lender, TCF Financial Corp., a Minneapolis savings-and-loan, sued to foreclose. Without the house, Ms. Berntsen says, "I'd be lost." TCF says it dealt with Ms. Berntsen as it would any borrower. "They can't say we want people treated with respect except when they overextend themselves on credit," says Peter Bell, a

TCF spokesman.

Ms. Berntsen kept her house after a pro bono lawyer intervened. Other terms of the settlement are confidential.

Robert Spinney of Newton, Iowa, makes ends meet on about \$7,700 a year in disability payments and wages from a part-time job mopping floors at a fast-food restaurant, Taco John's. He lives on his own, and received a call from a telephone solicitor for Chevy Chase Bank of Maryland in February 1996 offering a Visa card. The telemarketer correctly noted Mr. Spinney's place of employment on the form and recorded his income—as \$70,000.

"Robbie doesn't know the difference between \$7,000 and \$70,000," says his father, Lawrence Spinney, who thinks Chevy Chase should have known the difference between \$70,000 and a job at Taco John's.

The younger Mr. Spinney soon owed a combined \$4,000 to Chevy Chase and Discover, which also gave him a card. He doesn't understand revolving credit or the concept of interest. "I get a little confused," he says. Ms. Keest, the Iowa Department of Justice official, contacted Discover, a unit of Morgan Stanley Dean Witter & Co., and it forgave Mr. Spinney's \$2,400 balance. Chevy Chase has assigned his \$1,600 debt to a collection agency. Chevy Chase won't comment.

Many of the mentally disabled have overcome many obstacles to live independently, but find easy credit hard to deal with. Scott Swan, the Des Moines man, was left unable to walk or talk by the car accident. His father taught him to walk again, holding him up by the bib of his overalls as he crossed the living room floor. And by age five, he could speak well enough to be understood.

A Flying Tackle

Mr. Swan's parents hammered home themes of responsibility. "He's always early," says Kurt Harris, store manager at Dahl's grocery, where Mr. Swan sweeps up. On his way home from work one day

two years ago, Mr. Swan, a hulking figure at 6-foot-1, 240 pounds, tackled a thief fleeing from a nearby picture-framing store. Mr. Swan got a police commendation.

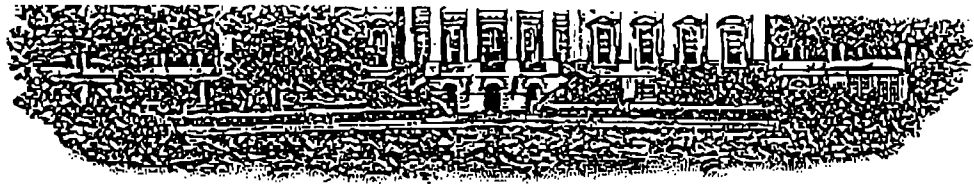
Mr. Swan thought he knew how to handle money. He writes checks for his \$308 rent and his utility bills, recording the payments in a shaky, oversized scrawl that overlaps the lines of his check register.

With credit cards, however, Mr. Swan's sense of responsibility was his undoing. Each card triggered a stream of calls from telemarketers offering that most prudent of products: insurance. In August 1994, a caller sold him credit-card protection insurance. A September call brought dental insurance. In December came another credit-card protection plan.

"We all buy insurance hoping not to use it," says Mr. Swan, echoing his father, a retired police captain, on the subject. "But we're glad it's there."

Over the next four years, Mr. Swan bought renter's insurance, legal insurance, life insurance and roadside-assistance plans (even though he doesn't have a driver's license). He bought eight separate so-called "credit-card registration" plans, which offer for a fee to notify credit-card issuers of lost or stolen cards, something cardholders can do for themselves.

Sears agreed to settle Mr. Swan's account earlier this month on terms proposed by Ms. Keest, the Iowa assistant attorney general. The company forgave his \$2,036 balance and agreed to refund more than \$860. Mr. Swan still had to pay for "legitimate goods and services" he charged to the Sears card, such as a flashlight, a toaster and work shoes. Sears agreed to absorb \$1,987 in charges for low-value telemarketed add-on services—the proliferating insurance, for instance. The settlement came six months after Ms. Keest informed Sears of Mr. Swan's condition and followed inquiries by The Wall Street Journal. Citibank, another of Mr. Swan's card issuers, hasn't offered to settle. It declined to comment on Mr. Swan's case.



THE WHITE HOUSE

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COMMENTS: _____

America goes bust

A surge in personal bankruptcies has prompted an attempt to strengthen the legal rights of creditors. Would that make economic sense?

LAST year 1.4m Americans filed for bankruptcy. That was almost 40% more than in 1996, and over twice the total in 1990. This rapid increase has coincided with America's healthiest economy in decades. Seeking something to blame for this unsightly blot on their ledgers, lenders have raised an alarm about the country's bankruptcy laws. Congress is now trying to make it harder for individuals to enter bankruptcy.

That would please those who regard going bust as one of modern life's deadly sins. Whether it would be good for the American economy is less certain. There would potentially be large economic costs due to reduced incentives for entrepreneurs to borrow and for heavily indebted people to work.

America's personal-bankruptcy laws are strikingly kinder to distressed borrowers than those of most other developed economies. This goes back to the early days of colonisation. Many European immigrants came to the New World to escape financial ruin and perhaps a debtors' prison back home.

Give debtors some credit

On the face of it, the economic case for giving debtors extensive protection is easily dismissed. Other things being equal, the easier it is for a borrower to escape from his obligations to pay interest and, ultimately, repay a loan, the more likely it is that creditors will lose some of the money they lend, and so the less willing they will be to extend credit. Less plentiful credit means less economic activity.

Against this should be set important benefits that can result from bankruptcy laws, says Lawrence Ausubel, an economist at the University of Maryland. When someone is too deeply in debt, he may have little incentive to work, or, at least, to do work that is legal, as any income earned will have to go to creditors. Free him from his debts and his incentives to work (legally) are restored.

In a sense, the right to go bust is an insurance policy against financial disaster. If a borrower, through no fault of his own, gets into difficulty, he can use bankruptcy "insurance" to get back on his feet. Insured against paying the full price of failure, people may take risks they would otherwise have avoided. Indeed, some economists argue that America's relatively debtor-friendly bankruptcy laws ex-

ECONOMICS FOCUS

plain why it has a more entrepreneurial culture than countries where the law provides greater protection to creditors. Although only one in five personal bankruptcy filings involves a failed entrepreneur, such cases account for 50% of the debt written off.

There are two common failures in the market for insurance. One is adverse selection: the people who most want to purchase insurance are those who are most likely to need it—i.e. the bad risks. This explains why insurance companies have mostly chosen not to sell policies that take



over a person's debts if he cannot honour them. Because bankruptcy laws attempt to overcome this market failure, they are, in effect, a state-imposed system of universal financial-distress insurance.

The second failure in insurance markets is moral hazard: a person who is insured has less incentive to act carefully than an uninsured person. It is one thing for bankruptcy laws to make entrepreneurs less fearful of taking sensible business risks; it is quite another for them to encourage people to borrow, and spend, recklessly in the knowledge that they can bail out later. Advocates of tougher bankruptcy laws reckon that the failure to tackle moral hazard is the main flaw in the current laws. Is this fair?

America's bankruptcy laws are relatively friendly to debtors, but they offer no free lunch. Filers face a public grilling

from creditors, detailed disclosure of income and assets, and the inability to file for bankruptcy again for several years. This exposure is a significant penalty for filing, especially as it gives the credit market useful information about the riskiness of lending to the individual. On the other hand, the law is not as onerous as it might be, because the fact that a bankrupt cannot go bust again for years makes him more attractive to certain lenders after a filing than before. Hence, extending the number of years that must elapse before someone can file for bankruptcy again—one of the proposals that Congress is considering to make the law "tougher"—may, perversely, encourage bankruptcy by making it even easier for bankrupts to get new credit cards.

In some states, certain assets are exempted from bankruptcy proceedings. This has enabled people with million-dollar homes to retain them while shedding their debts. Clearly, such exemptions create an unnecessary moral hazard. However, none of the reforms now before Congress tackles this problem decisively.

In a forthcoming article*, Elizabeth Warren, of Harvard Law School, reports that the only studies to show growing abuse of the bankruptcy laws have been funded by credit-card companies. By contrast, she has compared the typical person going bust in 1997 with those doing so earlier in the past two decades. Today's average bankrupt has a lower income than in previous years, and a similar, high, ratio of debts to income. In other words, he is exactly the sort of person that the bankruptcy laws were designed for. The reason that far more people are going bust now is not greater abuse of the law but rather far more people with large debts, she says—an argument supported by many other independent studies.

Credit-card debt alone has doubled in the past four years. Much of the increase in borrowing has been by people on lower incomes who would once have been denied unsecured credit, but can now get it because of the development of financing techniques that allow lenders to spread their risks by selling securitised bundles of loans in the financial markets. Paradoxically, tougher bankruptcy rules might encourage even more lending to people like this. If that happens, the ultimate result could well be more bankruptcy filings rather than fewer.

* "The Bankruptcy Crisis". *Indiana Law Journal*, Summer 1998.

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HEADLINE: Bankrupt? Pay Your Child Support First

BYLINE: By Elizabeth Warren; Elizabeth Warren is a law professor at Harvard who specializes in bankruptcy.

DATELINE: CAMBRIDGE, Mass.

BODY:

The Senate and House are considering legislation to reform bankruptcy laws. The credit industry has lobbied aggressively for this legislation, complaining that it is difficult to collect from people hiding behind bankruptcy filings.

But it is important to recognize the unintended consequences of the changes the industry wants -- specifically, their devastating impact on the tens of thousands of women who turn to bankruptcy courts to collect alimony and child support from former husbands who have sought bankruptcy protection.

In 1903, Congress declared that child support and other marital obligations were "nondischargeable debts" -- meaning that no one who declares bankruptcy can escape liability for these obligations. Like taxes and student loans, these debts must be repaid in full both during and after a bankruptcy. Congress quite properly declared that child support and alimony were a priority and must be paid first and in full.

But some proposals before Congress would add to the list of nondischargeable debts. Credit card debt piled up in the 90 days before a bankruptcy filing or incurred when the person did not have "a reasonable expectation or ability to repay" would be included.

This means that even if a debtor declared bankruptcy, credit card bills, with their compounded interest, penalties and collection fees, would survive forever, and have just as much priority as child support payments.

This could be devastating to children. A system in which almost everyone must be paid could very well mean that no one is paid -- or, more likely, that only the most aggressive and powerful creditors are.

Last year, some 100,000 bankruptcy cases involved child support, alimony or another form of family maintenance. In about half of the cases, women were creditors trying to collect court-ordered support from their former spouses. Without such recourse, some families would have to turn to public assistance.

All creditors are victimized by fraudulent debtors. But bankruptcy law

The New York Times, April 27, 1998

already gives creditors effective tools to root out such abuses. Modest changes to the bankruptcy laws, like authorizing routine audits of debtors' petitions, would give creditors even better protection. But one thing should not change: when it comes to paying off debt, women and children should come first.

LANGUAGE: ENGLISH

LOAD-DATE: April 27, 1998

Negotiators Complete Bankruptcy Reform Bill

By CAROLINE E. MAYER
Washington Post Staff Writer

House and Senate negotiators yesterday approved a major overhaul of the nation's bankruptcy laws to make it harder for financially strapped Americans to wipe out their debts, but the Republican-crafted legislation appears to have little chance of becoming law.

Within hours after the House-Senate compromise was reached, Senate Democrats denounced it as a "sweetheart deal for the credit card companies" and predicted a White House veto if Congress ended up passing it before it adjourned this weekend.

The measure—the first significant rewrite of the bankruptcy code in two decades—has been vigorously sought by the nation's banks, consumer finance companies, credit card issuers and retailers who have been concerned by the explosion in personal bankruptcies the past few years.

Arguing that current law makes it too easy for consumers to walk away from their debts, the banking industry urged Congress to make it harder for debtors to have their liabilities completely erased by filing for bankruptcy.

Despite the buoyant economy in recent years, bankruptcy filings are at an all-time high—1.4 million last year, up from 1.18 million in 1996 and 926,000 in 1995. One of every 70 households now files for bankruptcy, according to the American Bankruptcy Institute, a

nonprofit research group. That ratio is even higher in Maryland and Virginia, where one of every 58 households files for bankruptcy protection.

Under the compromise measure, it would be harder for debtors to seek bankruptcy protection under Chapter 7, which permits most debts to be completely erased. About 70 percent of all bankruptcies are now filed under Chapter 7. But under the proposed changes, a bankruptcy trustee would examine a debtor's ability to repay claims. If the debtor can repay 25 percent of these claims or \$5,000 in five years, then without a special exemption from a bankruptcy judge he or she must file under Chapter 13, agreeing to repay part of the debt over time.

The measure "sends a clear signal for those who have abused the bankruptcy code that the free ride is over," said Sen. Charles E. Grassley (R-Iowa), the chief sponsor of the measure in the Senate.

While banking industry lobbyists had not read all of the provisions approved by the House-Senate conference committee, they nevertheless hailed the compromise as beneficial to the industry. "From the creditors' viewpoint, it looks like a good package" said Philip Corwin, a lobbyist for the American Bankers Association.

Consumer advocates, on the other hand, blasted the measure. By dropping some of the Senate's provisions to rein in perceived abuses by creditors, "it's unacceptable," said Mary Rouleau, legislative director of the Consumer Federation of America.

White House officials were still reviewing the conference report late yesterday and therefore were reluctant to predict a firm veto from President Clinton. But Jake Siewert, a spokesman for the White House's national economic council, said "it did not meet the test of fairness" that the White House had been seeking to impose strict new rules on both debtors and creditors.

In particular, White House officials are concerned that the measure would be particularly unfair on middle-class debtors. Families whose income was above the national median (\$50,000 for a family of four) would find it harder to wipe out their debts under the conference bill.

Well-off individuals, however, could protect a lot of their assets by buying expensive homes in states such as Florida and Texas where there are homestead exemptions. Under these exemptions, a debtor's home cannot be considered part of his or her assets. The only new requirement would be that these individuals lived in these states for at least two years before they file for bankruptcy.

Yesterday's compromise was drafted by Republican lawmakers over the past two days as they rushed to complete the bill before Congress is scheduled to adjourn this weekend. Congressional aides said that when "Democrats and the White House kept raising issues" that the Republicans thought had been resolved, Republicans decided to write a bill on their own.

"The leadership was determined to have a conference report," one aide said.

However, that angered the Democrats, including Sen. Richard J. Durbin of Illinois who was one of the chief sponsors of the measure in the Senate, where the bill passed by a huge bipartisan vote of 97 to 1. Durbin vowed to fight the measure when it reached the Senate.

"I'll do everything I have the power to do under Senate rules," Durbin said. "This bill is unacceptable and will not be signed into law by the president. It is clearly so one-sided as to be unfair to consumers across the nation."

Durbin was particularly concerned about a provision that would change existing law to bar consumers from bringing class action lawsuits against creditors who violate bankruptcy laws by demanding payment on discharged debt.

Additionally, he was disturbed that the Republicans changed a provision that would have required credit card companies to specify in monthly statements how long it would take consumers to pay off their debt—and what total payoff would be—if they paid only the minimum each month.

Under the conference measure, the Federal Reserve Board is directed to study whether such a disclosure is necessary before issuing such regulations.

The Washington Post
THURSDAY, OCTOBER 8, 1998

U.S. May Seek Wider Microsoft Sanctions

By ELIZABETH CORCORAN
and RAJIV CHANDRASEKARAN
Washington Post Staff Writers

If the Justice Department and 20 states win their antitrust lawsuit against Microsoft Corp., they may ask a federal judge to impose sanctions on the company that extend beyond previously requested steps involving Internet browsing software.

In a court filing yesterday, lawyers for the plaintiffs asked to reserve that option. If exercised, it would take the case in an important new direction, addressing concerns in many parts of the software industry that the "remedy" steps currently being sought would have little real impact on Microsoft.

When Justice and the states filed their lawsuit in May, they asked the judge to order Microsoft to either strip its Internet browsing software from its Windows 98 operating system or to include a rival browser made by Netscape Communications Corp.

Government lawyers allege that Microsoft is using illegal tactics to maintain a monopoly in operating systems, and also using that market clout to dominate the market for Internet browsing software. Microsoft denies the allegation, saying in a court filing yesterday that "the facts of this case and the clear legal precedents refute each of the governments' claims."

See MICROSOFT, E3, Col. 3

MICROSOFT, From E1

Microsoft's business practices have resulted in "significant benefits to consumers," the company wrote.

Yesterday, government lawyers told U.S. District Judge Thomas Penfield Jackson in a court filing that "depending on the nature and scope of the violations determined by the court at trial, plaintiffs will seek such additional permanent relief as is necessary to restore competitive conditions and to prevent Microsoft from committing similar violations in the future."

That language signals a change of strategy, said Ken Wasch, president of the Software Publishers Association, a trade group in Washington that has opposed Microsoft. The government is proposing to first demonstrate that Microsoft's conduct violates antitrust principles, then to open up a second phase of the trial to determine a more sweeping set of "remedies" than originally proposed, Wasch said.

Among the remedies government lawyers are considering

would be to require Microsoft to "open" or more broadly publish technical details—called "application program interfaces," or APIs—that programmers need to know when they create applications that will run on top of Microsoft's Windows operating system.

Microsoft critics believe that Microsoft provides its own programmers better and faster access to Windows APIs, giving the company an advantage over rivals in writing software such as Internet browsers and word processors.

"What we're talking here is stuff that would let [non-Microsoft] programs interoperate efficiently" with the operating system, said Michael Morris, general counsel at Sun Microsystems Inc., a Microsoft competitor.

Microsoft officials maintain that the company already widely publishes the Windows APIs and that Microsoft programmers have no special advantages. "Virtually any objective observer would say that Microsoft does a far better job of publishing and distributing information about [Windows] APIs than any other [operating system] vendor in history," company

spokesman Mark Murray said. Requiring a powerful company to "open" such interfaces isn't a new concept. For instance, in 1984, the European Commission leveled several antitrust injunctions against International Business Machines Corp., including a requirement that IBM disclose the APIs of its mainframe operating system software.

Industry analysts believe there are many ways the government could structure such a remedy, including, for instance, establishing an independent organization to monitor how thoroughly Microsoft complied with the order.

If Microsoft failed to live up to the agreement, antitrust enforcers could conceivably push for a break-up of the company, legal and industry specialists said.

The focus on additional remedies has sharpened as the potential market impact of a ruling on the Windows 98 browser issue is weakening. Windows 98 was released in May with a browser and has sold more than 1 million copies to date.

Republicans Agree to New Limits On Consumer Bankruptcy Filings

A1

By KATHARINE Q. SEELYE

WASHINGTON, Oct. 7 — House and Senate Republicans agreed today on a vast overhaul of the bankruptcy system, making it more difficult for consumers to walk away from their debts and handing the banking and credit-card industries a major victory.

The agreement was reached without the consent of Congressional Democrats or the White House, and Administration officials said they would recommend that President Clinton veto the bill because of its treatment of low-income consumers.

Under the Republican agreement, only consumers with relatively low incomes could declare bankruptcy under the rules that wipe out many debts. But the agreement would give bankruptcy judges some discretion in determining whether debtors could file under Chapter 7, which wipes out many debts, or under Chapter 13, which requires the repayment of most debts.

Debtors who earn more than the median income — \$17,900 for single people and \$51,000 for a family of four — would be moved into Chapter 13. Also sent into Chapter 13 would be debtors who could repay 25 percent of their unsecured debts, like credit cards, or \$5,000 over five years.

The negotiated bill weakens a requirement approved by the Senate that credit card companies disclose on monthly bills how much consumers will owe and for how long if they make only the minimum payment.

It also drops a Senate provision that sets a \$100,000 limit on the value of homes that could be kept by those declaring bankruptcy. This means that people could still move to certain states, like Florida and Texas, buy expensive homes, declare bankruptcy and keep the entire worth of their homes. But the compromise bill requires these people to live in the adopted state for at least two years before they can claim the homestead exemption.

With the perception that low-income Americans — primarily women and minorities, who are among Mr. Clinton's most reliable political allies — would be hurt most by the bill, Hillary Rodham Clinton has argued against the House version, toward which the compromise tilts.

Mrs. Clinton's concern is that credit-card companies will have a stronger claim than women and children on debtors — usually ex-husbands — who file for bankruptcy but who owe child support and alimony.

Republicans say alimony and child support will be the priorities in any bankruptcy liquidation under this agreement, but Democrats say the language is far from that clear.

The industry supported the bill passed by the House, which was guided by a concern that filing for bankruptcy had become too easy and that thousands of Americans were abusing the system. The Senate bill started from the premise that easily available credit was also responsible for the increase in bankruptcies and that the credit-card industry needed

to be held accountable along with consumers.

The House and Senate approved vastly different bills, and negotiators have been scrambling to iron out the differences before Congress recesses this weekend. The Republican agreement was sent to the House for a vote, which could come as early as Thursday.

Republicans said today that they were happy with the compromise and that it was fair, but Democrats were furious, none more so than Senator Richard J. Durbin of Illinois.

Mr. Durbin had joined Republicans in seeking an overhaul of the bankruptcy system, and his name gave the process bipartisan credibility. But he said he was shut out of the final negotiations.

The Senate bill, which had passed 97 to 1, "has been devastated in a closed-door Republican conference," Mr. Durbin said.

"Republican conferees stripped out every significant consumer protection in the Senate bill," he said. "The President will not sign this bill in its present form."

Today's agreement represents a huge success for banks, credit-card companies and retailers. The lending industry spent more than \$40 million to lobby for the changes, which could help it recoup an estimated \$4 billion a year.

Bankruptcy filings reached a record 1.42 million over the 12 months ending on June 30, continuing a three-year trend that has persisted despite the robust economy. More than one million of these bankruptcies were filed under Chapter 7, which erases all debt except taxes, mortgages, student loans, child support, alimony and, in some cases, loans on a car needed to get to work.

Senator Charles E. Grassley, the Iowa Republican who led the negotiations for the Senate, said the compromise protected honest consumers from those who abused the bankruptcy rules.

"Consumers across the country who work hard and pay their own way should not be forced to subsidize the abusive spending practices of those who exploit the Federal bankruptcy code for personal gain or convenience," Mr. Grassley said.

William P. Binzel, a lobbyist for MasterCard International, said complaints of a bill that let the industry off the hook were unfounded.

"If a lender makes credit available to someone who can't afford to repay it, the lender loses the principal and interest," Mr. Binzel said. "The bill addresses the fundamental flaw in the law that allows a debtor who can repay a portion of his debts to use the system to walk away from those debts."

The New York Times

THURSDAY, OCTOBER 8, 1998

Bankruptcy-Code Overhaul Bill Aimed At Individuals Is Passed by the House

Wall Street Journal, 6/12/78

By JACOB M. SCHLESINGER
And CHRISTINA DUFF

Staff Reporters of THE WALL STREET JOURNAL

WASHINGTON — The House voted to make it harder for Americans to wipe out debts by filing for bankruptcy, with Republicans unanimously supporting the bill and a majority of Democrats opposing it.

The 306-118 vote boosts the odds that the federal Bankruptcy Code this year will get its biggest overhaul in two decades. The Senate is considering a similar measure. And while the White House opposes the tougher House version, it has expressed sympathy with the bills' general goals.

The legislative drive has been spurred by the recent surge in personal bankruptcies despite the strong economy, with a record 1.4 million Americans seeking such protection last year. The House bill also sets some limits on business bankruptcies, although the most extensive and controversial changes affect only personal bankruptcies.

'Personal Responsibility'

Proponents have argued that the trend means access to bankruptcy should be restricted, asserting that the jump reflects

debtors' growing willingness to abuse the system to shirk their debts. "There's been a decline in personal responsibility," Florida GOP Rep. Bill McCollum said in support of the proposal. "Each individual has a personal responsibility not to pass on their debts to others when they can afford to pay."

But opponents say that evidence showing such a growing tendency is limited. They blame other forces, including the rapid growth of credit-card offers. And they say the bill would hurt struggling families in need of relief. "This is a bill of, by and for the credit companies, which have waged a long and expensive campaign for it," Rep. Jerrold Nadler (D., N.Y.) said during the debate, alluding to the financial-services industry's unusually intense lobbying effort.

The House bill's most controversial aspect would impose for the first time a "means test" on borrowers who want their debts wiped out under Chapter 7 of the federal Bankruptcy Code. It would require people earning at least the median U.S. income — about \$51,000 for a family of four — to file for financial reorganization under Chapter 13, subject to a court-ordered repayment plan, if a formula determines they are able to pay back 20% of their debt within five years.

Credit-Card Change

The bill would also make it harder to get relief from credit-card debts, even though those loans aren't secured by collateral. Current bankruptcy rules essentially protect only secured creditors, such as home and car lenders. The only unsecured debts currently protected are taxes, child support, alimony and student loans. Critics say the measure would make it harder for divorced women to collect from ex-spouses.

Sponsors of the Senate version say it is more moderate than the House bill. Rather than set a means test, the Senate bill would give judges more discretion to steer debtors from Chapter 7 to Chapter 13 and would give creditors more power to force such a shift.

In contrast to the sharp partisan fighting in the House, the Senate bill appears to have more bipartisan support. The measure passed the Senate Judiciary Committee 15 to 2 last month. Sen. Charles Grassley (R., Iowa), a main sponsor of the measure, said earlier this week that he thought prospects for Senate action this summer were "pretty good." Senate Majority Leader Trent Lott (R., Miss.), he added, has "said it's on the agenda." And Senate Minority Leader Tom Daschle (D., S.D.) said in a recent speech that "I support consumer bankruptcy reform, and so do most Senate Democrats."

Jacob Lew, President Clinton's acting director of the Office of Management and Budget, wrote in a recent letter that the administration "strongly opposes" the House bill in its present form. The Justice Department has said that it prefers legislation "more similar to the approach embodied" in the Senate bill, but that "important modifications" to the measure are needed to win administration backing.

Bankrupt? Pay Your Child Support First

By Elizabeth Warren

The Senate and House are considering legislation to reform bankruptcy laws. The credit industry has lobbied aggressively for this legislation, complaining that it is difficult to collect from people hiding behind bankruptcy filings.

But it is important to recognize the unintended consequences of the changes the industry wants — specifically, their devastating impact on the tens of thousands of women who turn to bankruptcy courts to collect alimony

Elizabeth Warren is a law professor at Harvard who specializes in bankruptcy.

and child support from former husbands who have sought bankruptcy protection.

In 1903, Congress declared that child support and other marital obligations were "nondischargeable debts" — meaning that no one who

A 'reform' that could hurt families.

declares bankruptcy can escape liability for these obligations. Like taxes and student loans, these debts must be repaid in full both during and after a bankruptcy. Congress quite properly declared that child support and alimony were a priority and must be

paid first and in full.

But some proposals before Congress would add to the list of nondischargeable debts. Credit card debt piled up in the 90 days before a bankruptcy filing or incurred when the person did not have "a reasonable expectation or ability to repay" would be included.

This means that even if a debtor declared bankruptcy, credit card bills, with their compounded interest, penalties and collection fees, would survive forever, and have just as much priority as child support payments.

This could be devastating to children. A system in which almost everyone must be paid could very well mean that no one is paid — or, more likely, that only the most aggressive

and powerful creditors are.

Last year, some 300,000 bankruptcy cases involved child support, alimony or another form of family maintenance. In about half of the cases, women were creditors trying to collect court-ordered support from their former spouses. Without such recourse, some families would have to turn to public assistance.

All creditors are victimized by fraudulent debtors. But bankruptcy law already gives creditors effective tools to root out such abuses. Modest changes to the bankruptcy laws, like authorizing routine audits of debtors' petitions, would give creditors even better protection. But one thing should not change: when it comes to paying off debt, women and children should come first. □

LEVEL 1 - 10 OF 15 STORIES

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Consumer Bankruptcy News

May 7, 1998

SECTION: Vol. 7, No. 16

LENGTH: 530 words

HEADLINE: Congressional 'Reform' Could Have Unintended Consequences

BODY:

Does Congress really want debtors to pay back credit card companies before paying taxes or support obligations to spouses with children?

Probably not, but that's what many judges and academics say lawmakers are likely to get if the bankruptcy reform legislation currently pending is rushed through.

"I've talked to members of Congress that have so little understanding of bankruptcy that they are simply reacting to a notion that more people ought to pay more debts," said one bankruptcy judge. "I guess everybody would agree with that. But when you get down to whether the legislation would, in fact, accomplish this and which debts would be selected for payment, that seems to be passed over in the emotional surge to the general theory."

And there does seem to be some impetus to pass legislation immediately. As one banker told CBN: "The academics and judges may have written [to Congress] and asked members to slow down, (see story below), but ... I'm not so sure the letters will have any effect. I get the feeling the lenders think it's in the bag."

One of the provisions that has many judges worried concerns the nondischargeability of credit card debt (fraudulent debt) in Chapter 13 that is incurred within 90 days of filing for bankruptcy. Many judges say such a provision would have at least three consequences:

1. It would put credit card debt on a par with taxes owed the U.S. Government and with support obligations to the custodial spouse. In fact, it might put such debt ahead of these two groups because credit card companies are likely to do a better job of collecting debt.

Said one judge: "This really doesn't seem to me to be something our society would generally support." Said another: "Chapter 13 already has a requirement that the debtor pay all of his or her available income after living expenses into the plan for three years. There isn't any more money to be had. Is there any particular reason why credit card companies should get a bigger piece of the pie [than anyone else]?"

2. It would remove one of the major incentives for filing Chapter 13 rather than Chapter 7 - one of the other goals of "reform."

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3. It would cause a substantial increase in the judicial workload.

The problem is that the banks and the Department of Justice (which says fraud is fraud and ought to be eliminated) both want this provision. Says one observer: "What the DOJ wants, it generally gets."

Many judges are equally concerned about the idea of means testing (which some observers are calling "mean testing") in Chapter 7.

"Until there is a clear mechanism for it, it is worrisome because it appears it would take an enormous amount of institutional time, whether by a trustee or by a court in making evaluations," said one judge. "The [National Bankruptcy Review] Commission did not feel this was something that was cost effective in terms of what could be recovered from the people who might be barred from bankruptcy or forced into an involuntary Chapter 13."

The judges we spoke with said they're not trying to tell Congress what to do. "All we ask is that Congress look at this closely and understand the impact of what they are doing."

LANGUAGE: ENGLISH

LOAD-DATE: May 12, 1998

Talking It Over

By Hillary Rodham Clinton



Bankruptcy shouldn't let parents off the hook

Over the past weeks, I've learned about proposed bankruptcy-reform legislation in the House of Representatives that could undermine the ability of some parents to collect child support. I have no quarrel with responsible bankruptcy reform, but I do quarrel with aspects of the bill that would force single parents to compete for their child support payments with big banks trying to collect credit card debt. The welfare of our children must come first.

Let me tell you about a hypothetical family: Jan and Simon have three children, ages 1, 3 and 5. Simon is the manager of a small shoe store with an annual salary of \$33,000. Jan is a full-time homemaker.

Sadly, they divorce, and Simon agrees to pay child support. Unfortunately, within a year, he's involved in a serious car accident and loses his job. Jan, struggling to raise their three children, stops receiving child support checks. Unable to find work, and behind on his bills, Simon files for bankruptcy protection. Jan is just one of his creditors.

Under current bankruptcy law, Simon is obligated to pay his taxes, his student loans and his child support and alimony. But under the legislation being considered by the House, certain of his credit card debts would also be mandatory. In Simon's case, as parties vie in the fierce competition for limited funds, child support payments and credit card obligations would be pitted against each other.

Unfortunately, Jan and Simon's story is all too common. This year alone, 1.4 million families will file for protection from unmanageable consumer debt under our bankruptcy laws. This represents an increase of about 400 percent since 1980. While some reform is in order, any accompanying threat to child support and alimony payments is not.

This administration has worked too long and too hard to improve child support collection to see it now threatened. The president has cracked down on nonpaying parents and strengthened enforcement. Since 1992, collections are up 68 percent.

Today, families that file under Chapter 7 are relieved of certain debts, but as in Simon's case, they must still repay others, including taxes, educational loans and family and child support obligations. Many also try to continue making home mortgage and car payments. They leave court relieved of some debt but certainly not

debt-free.

The aspects of the House bill that concern me would elevate certain types of credit card debt to the same high priority as taxes, school loans and family support. The challenge for Congress is to pass a law that is balanced and fair to both the creditor and the debtor — protecting families and children while reducing abuse of the bankruptcy laws.

The challenge for our economy is to preserve access to credit while making sure that eligible consumers are educated, responsible and protected from unscrupulous practices. It wasn't too long ago that large segments of our society were denied credit. At the time, it was important to provide people with this valuable economic tool, but now, as we all know, credit is readily available.

How many times in the past few months has your phone rung during dinner? You excuse yourself, leave the table and pick up the receiver, only to be greeted by a cheery voice on the other end of the line happily offering you a "pre-approved credit card." Or how many times have you seen or heard advertisements encouraging people with bad credit to borrow more?

For many people in financial straits — for whatever reason — such offers may sound too good to be true. Unfortunately, down the line, too many people find they didn't comprehend how much they would owe and don't have the means to repay the additional debt.

The average bankruptcy filer in this country earns less than \$18,000 a year after taxes. And, now, credit card companies even target college and high school students.

Most people use their credit cards responsibly and pay their bills reliably. But, for many Americans — like Jan and Simon — the difference between fiscal security and financial ruin is just one calamity away. A divorce, a lost job, an accident or a child's illness can rob a family of its financial security and eventually lead to bankruptcy court.

As members of Congress grapple with bankruptcy reform, they must deal with the problems that face both creditors and debtors. But one issue is clear. Any effort to reform the bankruptcy system must protect the obligations of parents to support their children.

• To find out more about Hillary Rodham Clinton and read her past columns, visit the Creators Syndicate World Wide Web page (www.creators.com).

Critics say bankruptcy bills threaten child support

By Christine Dugas
USA TODAY

Opposition is building to bills in Congress that could make it harder for women to collect child support and alimony from ex-husbands who file for bankruptcy.

"The current proposals would make hard-working women with children more vulnerable," says Sen. Edward Kennedy, D-Mass.

Critics are especially con-

cerned that Congress is rushing the GOP-sponsored bankruptcy reform bills to a vote.

"It will be shockingly irresponsible if the House and the Senate don't give the impact of what they are doing on child support the consideration it deserves," says Donna Lenhoff, general counsel to the National Partnership for Women and Families.

Current bankruptcy law makes child support and alimony a priority. So even

though bankruptcy under federal Chapter 7 wipes out most debts, it doesn't absolve debtors from paying child support and alimony they owe.

The pending bills don't change that. But proposed changes could make it harder for bankrupt men to make support payments. Both House and Senate bills would force debtors to repay more unsecured debts, such as credit card debt.

That means a bankrupt ex-husband could still be saddled

with big credit-card bills, plus child support and alimony. "MasterCard and the ex-wife will be competing for same limited dollars," says Harvard law professor Elizabeth Warren. "It's hardly a fair fight."

Bills sponsored by Rep. George Gekas, R-Pa., and Sen. Charles Grassley, R-Iowa, are awaiting committee action. Representatives for both lawmakers insist the bills will protect child support and alimony.

And there are plenty of oth-

er safeguards to make sure child support gets paid, says C. Bruce Allen, a Gekas spokesman. But Lenhoff is skeptical. "It's not true that the state child support enforcement apparatus can or will ensure that all child support debts are paid."

Says Kenneth Klee of the National Bankruptcy Conference, a nonpartisan group that advises Congress, "The credit industry will be taking money out of the pockets of women and children."

41ST STORY of Level 1 printed in FULL format.

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Los Angeles Times

June 1, 1998, Monday, Home Edition

SECTION: Part A; Page 1; National Desk

LENGTH: 1106 words

HEADLINE: CONGRESS PUSHES FOR BANKRUPTCY OVERHAUL;
FINANCE: LAWMAKERS OK BILLS TO MAKE IT HARDER FOR THOSE WITH INCOMES OF MORE THAN \$50,000 TO WIPE OUT THEIR DEBTS. SOME SAY RECORD FILINGS SHOW NEED FOR CREDIT REFORM.

BYLINE: ROBERT A. ROSENBLATT, TIMES STAFF WRITER

DATELINE: WASHINGTON

BODY:

With personal bankruptcies at a record 1.3 million last year--even in a robust economy--Congress is moving with all the determination of a collection agency toward the most sweeping changes in bankruptcy laws in decades.

House and Senate committees have approved bills to make it significantly harder for individuals with family incomes of more than \$ 50,000 to wipe out their debts by filing for bankruptcy.

Backstage negotiations over the bills' most controversial features will get underway early this week, and floor action is expected to follow soon after.

Though election-year politics is stalling many bills, and the Clinton administration has reservations about the bankruptcy measures in their present form, some significant tightening of federal bankruptcy procedures is expected to become law.

The bills' backers say such an overhaul is needed to prevent abuses by reckless spenders.

"We have more bankruptcies than college graduates each year," complained Rep. James P. Moran (D-Va.). "People need to be accountable and responsible for their debts."

But opponents complain that the bills amount to a \$ 4 billion-a-year gift to credit card companies and banks. This is how much they would recoup in credit card debt that is now wiped out through bankruptcy filings.

Before these financial institutions ask Congress to crack down on debtors, Sen. Barbara Boxer (D-Calif.) wants them to cut back on some of the 2 billion solicitations and offers they pour out each year.

Since Jan. 1, Boxer said, banks and credit card companies have stuffed offers of \$ 1.3 million worth of credit cards and lines of credit into her mailbox at home. "It's unbelievable," she said.

Both bills affect only the estimated 15% of bankruptcy filers whose income is above the national median of approximately \$ 50,000 a year for a family of four. The 85% with lower incomes could still file under Chapter 7 of the bankruptcy law, which wipes out all debts, or Chapter 13, which provides for a repayment plan.

The tougher bill, adopted by the House Judiciary Committee, forces many of those affected to repay part of their debt over five years.

For those with incomes of more than \$ 50,000, the bankruptcy court would determine whether at least \$ 50 a month remains after basic living expenses. If it does, the court would require the debtors to repay 20% of their unsecured debt (typically, credit cards) over five years.

Under the Senate Judiciary Committee's bill, creditors could ask the bankruptcy court to refuse to allow people with incomes above \$ 50,000 to file under Chapter 7 to avoid paying any debts. Instead, the debtors could be forced to adopt repayment plans at the discretion of the bankruptcy referee.

*

From the creditors' point of view, the current bankruptcy system makes no sense.

"It is the only social welfare program not based on need," said Michael McGarry, public relations manager for Visa International, which provides technology and marketing for 15,000 banks, thrifts and credit unions that distribute Visa cards. "Society is picking up the tab when people don't repay their debts."

A strong moral overtone accompanies the arguments of those who want change. They point disapprovingly to a popular guidebook to bankruptcy titled, "Debt-Free: Your Guide to Personal Bankruptcy Without Shame."

"The free ride is over," said Sen. Charles E. Grassley (R-Iowa), a key author of the legislation.

Mary Rouleau, legislative director of the Consumer Federation of America, responds that most people file for bankruptcy not out of moral turpitude but because of a disaster in their lives.

"They lose their job. They get divorced. They have a medical crisis with no health insurance or not enough health insurance," she said. The vast majority, she argued, are hard-working people struggling against tough circumstances.

She cited a study showing that the average person filing under Chapter 7 in 1996 had an after-tax income of \$ 19,800 and credit card debt of \$ 17,544. Their income and assets, not to mention their lifestyles, are very different from the spending patterns of the celebrities who have declared bankruptcy, including

Los Angeles Times, June 1, 1998

Burt Reynolds, Kim Basinger and Bruce McNall, former owner of the Los Angeles Kings hockey team.

The Clinton administration opposes the legislation. The Justice Department argued in a letter to Senate Judiciary Committee Chairman Orrin G. Hatch (R-Utah) that "access to Chapter 7 should not be governed by an arbitrary means test" because of the "great variations in circumstances that bring debtors into bankruptcy."

Opponents of the legislation argue that it places ex-spouses and children in competition with credit card companies for the same pot of money.

To answer these critics, both the House and Senate committees approved amendments specifying that alimony and child support be repaid first. "Deadbeat dads should be given no chance . . . to avoid making child support and alimony payments," Grassley said.

Opponents insist that if the credit card companies are granted a chance to recover more debt, they should in return have to sacrifice some of their ability to offer credit. Any legislation, said Sen. Dianne Feinstein (D-Calif.), "should put some obligations on those who sell credit so easily."

The industry argues that it has merely democratized credit by making it available to rich and poor alike. About 40% of cardholders pay their bills in full each month and carry no balance, according to Visa's McGarry. About 96% of cardholders are current in their payments, he adds, and just 1% of all cards wind up in bankruptcy cases.

Sen. Joseph R. Biden Jr. (D-Del.), whose state is home to many credit card operations, insisted that "credit card companies do not prey on the poor. They take a gamble: They go out and take a chance on a class of people."

*

The gamble is paying off handsomely. The profits of banks heavily involved in the credit card business were double those of general commercial banks in 1996, according to a forthcoming study by Beverly Burden in the Journal of Bankruptcy Law and Practice.

And the flow of credit keeps accelerating. Consumers had \$ 422 billion in credit card debt outstanding at the end of 1997, double the figure in 1993. And they had \$ 1.6 trillion in potential credit they had not yet tapped.

*

Times researcher Tricia Ford contributed to this story.

(BEGIN TEXT OF INFOBOX / INFOGRAPHIC)

Going Broke

5TH STORY of Level 1 printed in FULL format.

Copyright 1998 Times Mirror Company
Los Angeles Times

June 8, 1998, Monday, Home Edition

SECTION: Metro; Part B; Page 4; Editorial Writers Desk

LENGTH: 541 words

HEADLINE: BANKRUPTCY NON-REFORM;
PROPOSED CHANGES WOULD WEAKEN PROTECTIONS FOR TRULY NEEDY DEBTORS AND LEAVE
UNCHANGED GAPING LOOPHOLES THAT WEALTHY FILERS USE TO PUT UP THE SHIELD OF
BANKRUPTCY.

BODY:

The credit card industry has hijacked efforts to reform bankruptcy laws. The House and Senate bills headed for floor votes are clothed cleverly in the rhetoric of reform, and change is certainly needed. But in reality they would significantly weaken protections for truly needy debtors and leave unchanged gaping loopholes in the law that savvy--and typically wealthy--filers use to put up the shield of bankruptcy to thwart creditors and lawsuits.

Bankruptcy judges, legal scholars and consumer groups are raising objections, yet Congress seems intent on ramming through frightfully flawed and sweeping changes in the complex law of bankruptcy. Virtually none of the recommendations from the 1997 congressional National Bankruptcy Review Commission are included.

With consumer bankruptcy filings rising to a new high despite a robust economy, the credit card industry claims that too many consumers are simply avoiding their debts by seeking refuge from creditors under bankruptcy laws. The industry mistakenly presumes that filers are simply deadbeats abusing the law. In fact most consumers file for bankruptcy only as a last resort after suffering some major setback, such as job loss or massive medical bills.

Historically, personal bankruptcies rise and fall with the level of consumer debt per household. Credit card companies have been a major source of easy credit, especially for low-income consumers, and helped boost consumer indebtedness. In 1996, the average person who filed under Chapter 7, which eliminates all debts, had an after-tax income of \$ 19,800 and credit card debt of \$ 17,544.

Credit card issuers are unwilling to take into account--and assume full responsibility for--their aggressive and injudicious extension of credit. Instead they and their skilled Washington lobbyists have managed to get bills that would, for the first time, apply means testing so that consumers with incomes above \$ 50,000 would be prevented from seeking protection under Chapter 7 and forced to arrange at least partial payments. But high-income filers who can afford lawyers can still shield assets, because the bills do not change existing loopholes that allow, for instance, the transfer of assets to trusts.

Los Angeles Times, June 8, 1998

Most disturbing are provisions that enable creditors to challenge any Chapter 7 filing, regardless of the consumer's income. Just as outrageous, unsecured credit card debt would be reclassified as a non-dischargeable debt, in the same category as child support, alimony and taxes. Women could have a harder time collecting child support if their ex-husbands had to decide between meeting family obligations or fending off aggressive collection agents.

The House and Senate bills do nothing to root out real abuse at the high end and would give creditors undue leverage over low-income consumers. They also would add new complexity and costs. This is no reform, and consumers should let lawmakers hear about it.

To Take Action: Contact your representative through the congressional switchboard, (202) 224-3121. Or call Sen. Barbara Boxer, (202) 224-3553 or (310) 414-5700, e-mail: senatorfboxer.senate.gov, or Sen. Dianne Feinstein, (202) 224-3841 or (310) 914-7300, e-mail: senatorffeinstein.senate.gov.

LANGUAGE: English

LOAD-DATE: June 8, 1998

NATIONAL BANKRUPTCY CONFERENCE

(a voluntary organization composed of persons interested in the improvement of the Bankruptcy Code and its administration.)

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Hon. George W. Gekas
Chairman, Subcommittee on Commercial
and Administrative Law
B353 Rayburn House Office Building
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Re: National Bankruptcy Conference Opposition to H.R. 3150

Dear Mr. Chairman:

On behalf of the National Bankruptcy Conference, I write to express The Conference's opposition to the enactment of H.R. 3150. The National Bankruptcy Conference is a self-supporting, not for profit organization of 67 members consisting of academics, judges and lawyers interested in the improvement and administration of a balanced bankruptcy system. We do not represent any special interests. The Conference has worked with the Congress on bankruptcy legislation since 1933, and our members were actively involved in the formulation and drafting of the 1938 Chandler Act and the 1978 Bankruptcy Code. We have consulted with Congress over the last 20 years with respect to proposed amendments to the Bankruptcy Code.

Although the Conference supports some of the provisions in H.R. 3150, we are fundamentally opposed to formulaic means testing that would deny debt-burdened Americans access to a fresh

Hon. George W. Gekas

March 9, 1998

Page 2

start under chapter 7 of the Bankruptcy Code. The Conference does not believe that the case has been made to depart from over 100 years of bankruptcy policy by -- forcing certain debtors to use their frequently uncertain future income to pay creditors rather than pursue a fresh start. We believe many of these financially-strapped debtors will choose to drop out and "go underground" rather than be subjected to an untenable life choice of paying all of their disposable income, if any, to creditors rather than educating their children, paying their medical expenses, maintaining a means of transportation and sustaining their families at near poverty levels. Rather, we believe the principle enunciated by our Supreme Court in 1934 is still valid: "The new opportunity in life and the clear field for future effort, which it is the purpose of the Bankruptcy Act to afford the emancipated debtor, would be of little value to the wage-earner if he were obliged to face the necessity of devoting the whole or a considerable portion of his earnings for an indefinite time in the future to the payment of indebtedness incurred prior to his bankruptcy." Local Loan v. Hunt, 292 U.S. 234, at 245 (1934).

Unquestionably the bankruptcy laws can be improved. But both debtors and lenders must take responsibility for the debt discharged in bankruptcy. As reported in the February 5th edition of the Wall Street Journal, over 3 billion credit card solicitations were made by lenders in 1997. That averages about 12 per year for every man, woman, and child in the United States! It is not surprising to us that some of these debtors are addicted to credit. H.R. 3150 does nothing to curb this abuse but places the blame solely on the debtors. Even if the bankruptcy laws were repealed tomorrow, the lenders would still suffer almost all of the \$40 billion in losses they claim is discharged in bankruptcy. Bankruptcy does not cause the losses; inability to pay causes the losses.

The National Bankruptcy Conference supports curbing debtor abuse by tightening exemption laws, preventing repeat filings, and permitting dismissal of bankruptcy cases for clear abuse as determined by the bankruptcy judge. Although H.R. 3150 embraces these concepts, it does so in a manner we believe to be flawed. We have communicated our specific objections to your staff.

We stand ready to work with your staff to achieve meaningful bankruptcy reform. But a statute as complex as the Bankruptcy Code should not be amended in a rush to judgment. We are concerned that the ambitious hearings and

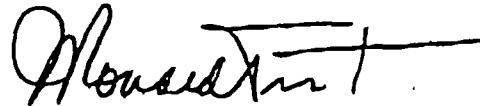
Hon. George W. Gekas
March 9, 1998
Page 3

mark-up schedule will afford insufficient time to carefully consider the enormous implications of the proposed legislative reforms.

The National Bankruptcy Conference requests the opportunity to testify at hearings on H.R. 3150, H.R. 3146, or related legislation. We are enclosing our report on consumer bankruptcy reform; a proposed statute to effect our recommendation will be made available to your staff shortly.

Please feel free to contact me or others at the National Bankruptcy Conference should you desire our assistance with these difficult legislative issues.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Ronald Trost", with a long horizontal line extending to the right.

J. Ronald Trost
Chairman

1ST STORY of Focus printed in FULL format.

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MAY 9, 1998, SATURDAY

SECTION: WHITE HOUSE BRIEFING

LENGTH: 726 words

HEADLINE: PRESIDENT CLINTON'S
WEEKLY RADIO ADDRESS

BODY:

PRESIDENT CLINTON: Good morning. Tomorrow is Mother's Day, a special moment to express the gratitude, respect and love we feel all year round. Our mothers give us life, they offer us unconditional love, strong guidance, and the sense that we can grow up to do anything we can dream of. From our first moments mothers are our best teachers and most selfless friends. And like my own mother, whom I miss very much on Mother's Day, they rarely ask for thanks. A mother's main wish is to see her children grow up healthy and happy.

Today I want to talk about a few ways we here in Washington can give all mothers that peace of mind, whether they work in an office, a factory, a hospital or at home. To make that tribute to motherhood, we must all take responsibility for the care of our children.

For many mothers who work, as my mother did, peace of mind requires affordable quality child care. Millions of American women have full-time jobs outside the home. Three of five mothers with children under six are working to meet their obligation to their children and their employers. Juggling those responsibilities is even more difficult when quality child care is either hard to find or too expensive to afford. That's why I've included in my balanced budget a significant new investment in child care. I urge Congress to join me in making child care better, safer and more affordable for those who need it. To help parents find the best care for their children, today I am releasing a report from the Department of Health and Human Services. It's a consumer guide to child care quality that recommends four steps for parents. One, interview the potential care-givers. Two, check the references. Three, evaluate how the care-giver meets your child's needs. And, four, stay involved.

As Mother's Day reminds us, governments don't raise children, parents do. There is no substitute for a mother's love or a parents responsibility. We too in the national and state governments however have a responsibility. A big one is to protect America's children from abuse and neglect. Nothing gives mothers peace of mind like the knowledge their children are in safe hands.

Today I'm also releasing a new Justice Department set of guidelines for screening child care workers and other care-givers. And, again, I urge Congress to act on a proposal I put forth to facilitate background checks on child care-givers. There is strong bipartisan support for this proposal, and I am hopeful that members of both parties will move quickly to give America's children the care they deserve.

There is one other thing I'd like to talk about that we must do to protect our children. Fathers must take their share of responsibility too. Children

deserve to be raised by both parents. But when that's not possible children must still receive the support they need. The unfortunate division of families cannot mean the end of child support. That is why we have worked so hard to toughen enforcement of child support laws, and since 1992 we have raised collections by 68 percent a year.

We have worked too hard for too long toughening enforcement of child support laws to let our progress be accidentally undone. But that could happen if Congress goes ahead with one part of bankruptcy reform legislation now under consideration. I am willing to work with Congress to pass responsible and fair bankruptcy reform. However, under one leading proposal when a father declares personal bankruptcy a mother may have to compete with powerful banks and credit card companies for the money they're owed. That's not the law now, and if that competition starts we all know who will lose the contest -- our children. Parents have to step up to their responsibilities, and so does Congress. Some changes to consumer bankruptcy laws are in order, but mothers and children should keep their priority under the child support laws. They shouldn't have to stand in line for the support they need.

America's mothers hold a special place in our hearts. In return we owe them the love and respect they have given us. On Mother's Day we do so with cards, bouquets and gifts. But today and every other day we should also do everything in our power to give our mothers the peace of mind they deeply deserve. Thanks for listening.

END

LANGUAGE: ENGLISH

LOAD-DATE: May 10, 1998

LEVEL 1 - 11 OF 15 STORIES

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BCD News and Comment

May 5, 1998

SECTION: Vol. 32, No. 10

LENGTH: 438 words

HEADLINE: Judges Urge Congress To Slow Reform

BODY:

A group of 110 bankruptcy judges wrote a letter April 9 to every member of Congress urging them to slow the pace of bankruptcy reform (see sidebar for complete list). The letter comes on top of recent efforts by academics, who are also concerned that the impact of this legislation has not been fully considered.

"There's a sense of urgency about Congress being close to passing a bill, the implications of which don't seem to have been fully considered," said Judge Robert Martin (Bankr. D. Wisc.), who coordinated the effort for the judges. "The [National Bankruptcy] Review Commission spent two years carefully studying [bankruptcy reform] and the bills that are pending don't reflect any their thoughtful input. In fact, they seem to be adopting things which were largely rejected in the consumer area. From a procedural and institutional point of view, we felt it appropriate to ask Congress to slow down and give some further consideration as to what impact this legislation would have on the courts."

The judges, most of whom have been on the bench more than 10 years, did not take a position on the merits of the pending bills. Rather, they told the legislators that they shared "a single, deep concern that legislation presently before Congress would make fundamental changes in bankruptcy for individual debtors that have not been sufficiently considered."

For example, H.R. 2500, H.R. 3146, H.R. 3150, and S.1301 "all impose new limits on the availability of bankruptcy relief. Since 1898, an individual's debts have been discharged upon surrender of the individual's nonexempt property, and the property has been liquidated to pay the individual's creditors. The proposed legislation would deny this basis for discharge in many cases, requiring instead that individuals make payment out of their future earnings, for as much as seven years. The bills also propose major changes in what debt may be discharged, in the relative amounts paid to secured and unsecured creditors, and in the extent to which documentation must be filed and processed in connection with a bankruptcy case."

With fewer than a dozen hearings on all of the bills combined, the judges say it is likely that the proposed bills will "(1) fail to fully accomplish their intended purpose, (2) generate unnecessary litigation over unclear terms, and (3) impose excessive costs on all of the participants in the bankruptcy system."

Therefore, the judges are urging Congress to consider additional hearings and to allow time for study by all interested organizations, legal scholars, and

LEVEL 1 - 3 OF 13 STORIES

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NPR

SHOW: NPR ALL THINGS CONSIDERED (NPR 8:00 pm ET)

MAY 1, 1998, FRIDAY

Transcript # 98050111-212

TYPE: PACKAGE

SECTION: News; Domestic

LENGTH: 1432 words

HEADLINE: Congress to Reform Bankruptcy Laws

BYLINE: Peter Overby, Washington, DC; Robert Siegel, Washington

HIGHLIGHT:

Congress is working on legislation to reform bankruptcy law and make it harder for individuals to walk away from their debts. The House version of the bill favors credit companies, who say it's immoral not to meet one's obligations. Consumer groups, who blame banks and others for giving too much credit to people who can't handle it, don't have the money and lobbying power to have much clout in the debate. NPR's Peter Overby reports.

BODY:

NOAH ADAMS, HOST: Despite the booming economy, Americans are declaring personal bankruptcy at a record rate. And the Senate and the House are considering bills to make it harder to walk away from big debts. The credit industry and business groups have a powerful, well-financed lobbying campaign to make sure their voices are heard.

NPR's Peter Overby reports that credit users and other borrowers are barely in the debate.

PETER OVERBY, NPR REPORTER: A House judiciary sub-committee last week voted out a tough, pro-industry version of the Bankruptcy Reform Bill. The American Financial Services Association, the trade group of the credit industry, has made it easy for any local banker to join the grassroots campaign and support that bill. Just dial a special 1-800 number.

SOUNDBITE OF TOUCH-TONE PHONE DIALING AND RECORDED MESSAGE

UNIDENTIFIED FEMALE RECORDED VOICE: Hello. You have reached the American Financial Services Association Issue Advocacy Hotline. AFSA is a national trade

NPR ALL THINGS CONSIDERED (NPR), MAY 1, 1998

association for market-funded providers of retail consumer credit. Because constituents are the best lobbyists, the AFSA...

OVERBY: AFSA will explain how to write a letter or will patch through a phone call to Capitol Hill. Grassroots campaigns orchestrated from Washington are now pretty common. This one is part of a much bigger effort -- one that includes top-name lobbyists and lots of campaign cash.

Bankruptcy law is incredible complex. The last time it was overhauled, in the '70s, it took years to get a bill out of subcommittee. This time, it's taken just seven months. Congressional staffers say they're amazed.

The argument for reform is this -- people go bankrupt for many different reasons. But one is becoming more and more common -- middle-class bankruptcies of convenience. The industry tells Congress that voters are fed up with this kind of abuse.

AFSA Vice President Jeffrey Tassy (ph) says lawmakers get the message.

JEFFREY TASSY, AMERICAN FINANCIAL SERVICES ASSOCIATION VICE PRESIDENT: They operate in a market. And this is a product that is highly saleable now. The more astute politicians have sensed that the issue shifted.

OVERBY: Tassy says the argument was shaped on election night, 1996. AFSA placed some questions in a telephone survey of voters done by President Clinton's pollster.

TASSY: We were very surprised. First, they knew about it. They don't like it when the system that permits people that can pay to avoid those obligations.

OVERBY: Working for the industry are former Democratic Senator and Treasury Secretary Lloyd Bentsen, former Republican National Chairman Haley Barbour and others from the Nixon, Ford, Carter, Reagan, and Bush administrations.

Trying to put the brakes on the legislation are the Consumer Federation of America, United Auto Workers, bankruptcy attorneys and scholars. They can't afford polls. So, they do battle with academic studies that blame the industry for making credit too easy to get.

Visa and Mastercard fought back with their own studies. One concluded that as many as 50 percent of people who filed could pay back a significant part of their debt. Congress's General Accounting Office judged the study unreliable, but reformers still talk about bankruptcies of convenience.

MALLORY DUNCAN, GENERAL COUNSEL, NATIONAL RETAIL FEDERATION: One of the things that your mother always told you was there's two things you didn't do -- you didn't get divorced and you don't file for bankruptcy, because both them would ruin your lives.

OVERBY: Mallory Duncan is general counsel of the National Retail Federation.

DUNCAN: Well, our attitudes towards divorce have changed over the last generation. And unfortunately, the attitudes towards bankruptcy are beginning to change now. It's probably, in large part, a function of lawyer advertising.

NPR ALL THINGS CONSIDERED (NPR), MAY 1, 1998

You see an awful lot of ads that say, "1-800-DEBT- FREE." And the image is being sold that you pay \$700 and you can wipe out \$17,000 in debt.

OVERBY: This line of attack also appears in glossy ads, in publications that reach Capitol Hill. The ads claim bankruptcies cost every American household \$400 a year in hidden expenses. They don't say that even according to industry data, bankruptcies of convenience account for \$60 or less of that \$400.

Opponents of the bills contend that bankruptcy rates are up because credit card companies make big profits peddling high-interest cards to high-risk consumers. Democratic Senator Richard Durbin is a co-sponsor of the Senate bill. It's not so tough on consumers, but he still hopes to soften it further through amendments. He says the debate is missing one important voice -- people who someday will have to file for bankruptcy.

U.S. SENATOR RICHARD DURBIN (D-IL): You know, the real missing link here is the fact that we don't have anyone to speak for folks -- those unfortunate souls that find themselves in bankruptcy court and really should be there, because they are at the end of their rope.

OVERBY: Political scientist Richard Hall (ph), who analyzes the clout of interest groups, says this kind of lopsided lobbying is often seen, but rarely commented on.

RICHARD HALL, POLITICAL SCIENTIST: I think there's still a pretty strong adherence, among the writers of American politics textbooks, to the view that interest groups are very powerful in the United States. But at the same time, there's this adherence to a Pollyanna-ish view of pluralism, which is that everybody can kind of get in there and get in the game if they really want to.

OVERBY: In this game, the industry wants Congress to pass a law that would force more people out of total bankruptcy, what's called Chapter VII, and into Chapter 13, where they'd have to follow a schedule to settle with their creditors.

Such a broad overhaul goes against the findings of the Bankruptcy Review Commission appointed by Congress. Last October, the commission recommended just fine-tuning the law. A month earlier, in a preemptive move, GOP Congressman Bill McCollum introduced the first version of the House bill.

It closely matched one written by an industry lobbyist. And two weeks after the commission report, Visa and Mastercard each gave \$25,000 to the campaign committee for Senate Republicans. Former Congressman Caldwell Butler, a Virginia Republican, worked on reforms in the '70s and on the recent commission. He warns members of Congress to be careful.

CALDWELL BUTLER, MEMBER OF BANKRUPTCY COMMISSION, FORMER U.S. REPRESENTATIVE (R-VA): And I think they ought not to move hastily, simply because they're being stampeded by a well-financed credit industry, which of course is the situation now. Am I making myself clear?

OVERBY: Bankruptcy judges and trustees are asking Congress to slow down. The bill's opponents also got a small media bounce when a campaign finance reform group, Public Campaign, accused McCollum of introducing the industry bill in exchange for campaign money.

NPR ALL THINGS CONSIDERED (NPR), MAY 1, 1998

In one letter, AFSA's Jeffrey Tassy offered some other lobbyists "a great opportunity to spend several hours with McCollum over dinner" at \$1,000 each. McCollum denies he has ever done special favors for contributors.

The Consumer Federation of America, and other reform critics, tried to drum up media interest again a few weeks ago with a news conference.

UNIDENTIFIED SPOKESWOMAN FOR THE CONSUMER FEDERATION OF AMERICA: We stand here today, because of the credit card industry. When it failed to prevail, after presenting countless witnesses before the National Bankruptcy Review Commission, it turned to Congress and it launched a massive effort this last summer and fall...

OVERBY: Industry leaders say they need a big lobbying campaign, because consumer groups get all the good coverage. But this event pulled in just six reporters. And that afternoon, the Senate subcommittee amended its bill to make it more to the industry's liking.

Peter Overby, NPR News, Washington.

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OPINION

The new women's issue: bankruptcy law

By Elizabeth Warren

FAMILY and medical leave. Equal pay. Sexual discrimination. Harassment. These always have been "women's issues," and defined that way, they have become focal points for this country and its progress.

Yet there is a new "women's issue" that will dramatically affect almost three-quarters of a million women this year: bankruptcy law. Congress is about to take a step backward on that issue, stripping economic protection away from many of America's most vulnerable women.

How could something as complex, arcane, and ostensibly neutral as a bankruptcy law be a "women's issue"? Despite gains by women in the workplace, a growing number of households headed by women are facing economic stress, a fact echoed in the bankruptcy data.

In 1981, married couples and men filing alone accounted for

pressure troubled families for repayment.

This bill would fall hardest on women who are at the bottom of the economic ladder.

Women who file for bankruptcy are disproportionately divorced, separated, and widowed. A divorced woman, for example,

their collection departments.

This provision will affect an estimated 200,000 women a year above and beyond the half-million who file for bankruptcy.

At a time when most divorced mothers cannot collect more than 40 percent of the child support they are owed, this provision

doing so under the protection of the bankruptcy court.

For the 1 in 3 bankrupt women (and 1 in 2 bankrupt couples) trying to save their homes by paying the home mortgage in full, losing the opportunity for a court-protected repayment plan means they lose their last chance

rich off the hook.

Make no mistake: The bill will also be harmful to households headed by men. For families filing for bankruptcy after a layoff, or trying to recover from the devastation of uninsured medical debts or a failed small business, this bill removes the middle-class safety net. But for women trying to stabilize their economic fortunes following the breakup of their families, and for those trying to provide for children on small incomes, the proposed changes to bankruptcy law would be a particularly hard blow.

Is bankruptcy a women's issue? Rep. George Gekas (R) of Pennsylvania, sponsor of the House bill, proclaims that he "helps women with this bill." Lobbyists flatly proclaim, "There is no women's issue."

But 30 women's groups, along with Consumers Union, Consumer Federation of America, and Mothers Against Drunk Driving oppose the bill, while a creditors' lobby, spending a reported \$61 million, continues its push



LISA HANEY

about 80 percent of all bankruptcies. Today, households headed by women account for about 40 percent of all bankruptcies. Since 1981 their numbers have grown from about 69,000 to 538,000, making the

The bill would give creditors more leverage to pressure financially troubled families. A growing number of those are headed by women.

rate of growth for women more than twice the rate of men filing alone, and more than triple the rate of married couples filing joint petitions. Yet bankruptcy laws were amended in 1984, and again in 1994, to cut back debtor protection.

Meanwhile, women are having more trouble making ends meet. According to a new study from the Census Bureau, 28.5 percent of women heads of household have trouble paying for rent, utilities, or health care during a given year. That's almost twice as many as their male counterparts. For those who can't pay for two or more of those basic needs in a given year, the gap is equally wide: 16.2 percent of women versus 8.4 percent of men.

Next week the Senate is scheduled to take up a bill to reduce consumer protection in bankruptcy laws again. The bill would give lenders more leverage to

is three times as likely to file for bankruptcy as her married sister.

The credit industry says the legislation pending in the Senate won't affect many women. Their research shows that households headed by women in bankruptcy are poorer than those headed by men; which means the one provision based on family income would affect fewer households headed by women.

True enough, but that's only a small part of the story. While the public-relations campaign proclaims this bill is trying to make those debtors pay who can afford to pay, more than 100 pages of provisions make financial rehabilitation harder for every household.

Two provisions illustrate the devastating effects of this bill, regardless of the debtor's income.

More debts would survive bankruptcy. This problem hurts financially troubled women in two ways. It gives them and their families less protection when they file for bankruptcy. Unlike present law, the new measure would leave them saddled with credit-card debts that cannot be discharged. And credit-card companies would be able to continue raising interest and penalties and trying to collect forever.

Even for women who manage to stay out of bankruptcy, the provision is a disaster. Alimony and child support have long had protected status as two of the very few debts that survive a bankruptcy filing. This bill would elevate a portion of credit-card debt to the same status. So when a woman's ex-husband files for bankruptcy, she would have to compete against big lenders and

shameful

Options for repayment would decrease. The bill increases the amount of money that car lenders and some other creditors can demand when a debtor tries a bankruptcy repayment plan.

According to a study by the National Association of Chapter 13 Trustees, this provision alone would prevent about a quarter of all debtors who try to repay from

to avoid foreclosure.

While these and other provisions hammer away at families trying to get by on less than \$25,000 a year, the bill continues protection for million-dollar homesteads. The well-heeled who want to put their assets into trusts also will be fully protected.

There is a need for bankruptcy reform, but not reform that puts struggling households in the cross hairs while letting the

on greater opportunities to squeeze hard-pressed families.

At a time when more women than ever are finding themselves with no option but filing for bankruptcy, the Senate should not take that option away.

■ Elizabeth Warren teaches law at Harvard University, in Cambridge, Mass. She is an adviser to the National Bankruptcy Review Commission.

LEVEL 1 - 1 OF 15 STORIES

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HEADLINE: Issue: Do debtors get off the hook too easily?

BYLINE: Christine Dugas

BODY:

Credit card companies, retailers and other lenders are fighting a war. The battleground is Congress. And the enemy is the record number of personal bankruptcies.

Lenders complain that too many people who could afford to repay some of their debts are getting off the hook by filing for bankruptcy under Chapter 7, which wipes out most debts. They want to force more debtors into Chapter 13, a type of bankruptcy that gives debtors some relief but still requires them to repay most of what they owe.

"Bankruptcy has become like a carwash," says Mallory Duncan of the National Retail Federation. "People go in, spend a little time inside and come out spotless."

The lenders are pitted against consumer advocates and many bankruptcy lawyers, trustees and judges, who dispute creditors' claims about how much bankrupts can afford to repay. They say pushing more debtors into Chapter 13 isn't practical and would cost millions to implement.

The debate aside, there have been few studies of Chapter 13. What is known is that nearly two-thirds of the debtors who file financial reorganization plans under Chapter 13 fail to complete them.

"There is a lot we don't know about Chapter 13," says Karen Gross, a professor at New York Law School and author of Failure and Forgiveness, a book about bankruptcy. "Why are we rushing to revise the law?"

Betsy and Larry McDonald know a little about Chapter 13. Since Larry's back was hurt in an automobile accident in 1995, the Palmyra, Pa., couple have struggled.

After the McDonalds' auto insurer refused to pay Larry's lost wages, and their mortgage lender began to foreclose on their home, they filed for Chapter 13 bankruptcy.

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One reason the McDonalds chose Chapter 13 is that it stops foreclosure and gives debtors time to make up missed mortgage payments. But to be eligible, debtors must have a steady income, and they must have some money left after living expenses to repay creditors.

Under Chapter 13, debtors like the McDonalds draw up a three- to five-year plan to repay secured debts such as mortgages and priority debts, such as child support and back taxes. Any money left after that each month goes to pay unsecured debt, such as credit card and medical bills.

Not good enough

Despite good intentions, the McDonalds discovered their Chapter 13 plan was too optimistic. Betsy had to shut her clothing store. And now they are considering converting their bankruptcy to Chapter 7. It would mean losing their home, but the late fees, penalties and back payments already amount to more than their equity.

"To continue to pour money into their mortgage when they don't have enough to pay for living expenses is crazy," says their lawyer, Deborah Hughes. "They need a fresh start."

The two bankruptcy reform bills moving through Congress would prevent some debtors from getting that fresh start. Both ignore many of the recommendations made by the National Bankruptcy Review Commission last year. Instead, the House bill, sponsored by Rep. George Gekas, R-Pa., uses a formula based on income, debts and expenses to determine who must file under Chapter 13.

A Senate bill, sponsored by Sen. Charles Grassley, R-Iowa, continues to let debtors choose Chapter 7 or Chapter 13. But creditors could challenge the choice and force a debtor out of Chapter 7 if the debtor could afford to repay 20% of unsecured debt.

Creditors say the Gekas bill would plug a loophole in the system. According to a creditor-funded study by Ernst & Young, 15% of Chapter 7 filers in 1997 could have repaid 64% of their unsecured debts. Under the Gekas bill, those debtors could have repaid about \$ 4 billion, says the Bankruptcy Issues Council, which represents Visa and MasterCard.

But some experts disagree. "Even assuming the validity of the study, 15% is not a lot of people," says Judge Leif Clark, bankruptcy judge for the Western District of Texas. "And they're assuming that everyone put into Chapter 13 would complete their plan. We already have a high default rate. Why would these people perform any better?"

A lot is unknown

The only comprehensive study of Chapter 13, conducted by the Administrative Office of the U.S. Courts in 1994, found that from 1980 to 1988, only 36% of Chapter 13 filers completed their reorganization plans;

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49% failed for unknown reasons; and 14% were converted to Chapter 7.

The study also found there are huge variations from region to region in Chapter 13 filing rates and in the outcome of the cases, which many experts attribute to local tradition and culture (see chart). The study didn't try explain why so many debtors failed to complete repayment plans. Experts offer these reasons:

-- Unrealistic expectations. "I see many people who can't afford to be in Chapter 13, but they tell me they want to do it," says Henry Hildebrand, Chapter 13 trustee for the Middle District of Tennessee. "Most have never lived on a budget."

-- Bad advice. Too often, lawyers steer clients into Chapter 13 plans with a high repayment rate because it's the path of least resistance in their area, says William Whitford, professor of law at the University of Wisconsin. They know if they file a Chapter 7, or a Chapter 13 with low repayment plan, the case may be contested by the trustee or judge, he says.

-- Procedural errors. "If you don't get all your paperwork in by the deadline, your case can be dismissed," says Matthew Mason, assistant director of the UAW/GM Legal Services Plan.

-- Unexpected problems. "Many people find their financial problems are not behind them," says Robin Leonard, author of Chapter 13 Bankruptcy. "They may lose their job, or a medical crisis resurfaces."

-- Buying time. Some debtors file for Chapter 13 to stave off foreclosure while they sell their homes. They may get enough to repay the lender and have some money left over. Then, they let the Chapter 13 plan lapse.

-- Problems are solved. Some debtors may get caught up on past-due mortgage payments after only 12 months in Chapter 13, Duncan says. The case is a success for them and the lender, but it is recorded as not completed.

Most people agree that bankruptcy laws could be improved. But some experts say Congress should give debtors incentives to file under Chapter 13, rather than force them into it.

For example, people generally get the same black mark on their credit report whether they use Chapter 13 or Chapter 7, says Samuel Gerdano, executive director of the American Bankruptcy Institute, a nonpartisan educational organization.

Consider Billy Mack Parsely, who got into debt when he was 20. "I was making only \$ 400 a week, but it was easy to get credit," he says. Before he knew it, he owed \$ 35,000. In 1995, he filed under Chapter 13. But Parsely, 24, who lives in Mount Juliet, Tenn., soon converted to a Chapter 7 filing. "I thought if I filed Chapter 13, I could still establish a little credit. But

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it's not true. You don't get any credit."

Critics of the Gekas bill also say it would be expensive to administer. Someone would have to sit down with debtors and figure out how much they might be able to repay, before they file. Others say it will result in more motions from debtors, increasing court costs and lawyers' fees.

The Congressional Budget Office has estimated that figuring out who could file Chapter 13 would cost \$ 16 million to \$ 20 million a year under the Gekas bill and \$ 8 million to \$ 10 million under Grassley's bill.

Creditors say the system is already costly and inefficient. "While any reforms may have some costs involved, over the long run they will save a lot of money," says Michael McGarry of Visa U.S.A.

Gekas says he is only trying to root out abuse. "We're guaranteeing that the person who is inundated by debt is entitled to a fresh start," he says. "But if they have the ability to repay, they ought to do that."

Yet there could be unintended consequences. "You'll be putting into Chapter 13 many marginal people who didn't choose to be there," says Gross, the law professor. "So the number of people going into Chapter 13 may increase, but the failure rate will increase."

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HEADLINE: BANKRUPT POLICY

BYLINE: Joshua Wolf Shenk

HIGHLIGHT:

Congress rides to your creditor's rescue.

BODY:

In 1921, when wheat prices plunged at the Kansas City Grain Exchange, Harry Truman's clothing store on 12th Street tumbled as well. But Truman, unlike his partners, refused to declare bankruptcy and vowed instead to pay off his debts. It took 15 years.

In January 1998, Toni Braxton, whose two albums have amassed \$170 million in sales and who owns a baby grand piano, a Porsche, and a Lexus, filed for bankruptcy under federal law. She became the latest in a string of celebrities--Kim Basinger, Burt Reynolds, M.C. Hammer--to fend off creditors while continuing to live in luxury. "I'm gonna go out and enjoy myself," Braxton told a reporter after her filing.

Republican Congressman George Gekas says Americans need to be more like Harry Truman and less like Toni Braxton. Personal bankruptcy, he complains, has "become fashionable, en vogue. The Hollywood trendsetters do it." This helps explain why bankruptcies have jumped from around 200,000 in 1978 to more than 1.3 million in 1997.

Gekas's solution is House Resolution 3150, which would radically overhaul the bankruptcy system. It would not only give creditors more power to wrest payment from people who have filed for legal protection but also make it tougher for people to declare bankruptcy in the first place. Congress will consider his measure--and a Senate version sponsored by Republican Charles Grassley and Democrat Richard Durbin--this May. Its champions promote it as a consumer issue; after all, consumers pay for bankruptcies in the form of higher prices and interest rates.

Gekas's logic has a certain commonsense appeal. If people irresponsibly run up bills they can't pay, why should the law protect them? But a quick look at the bills' interest-group supporters--from the American Bankers Association to the National Retail Federation--provides a clue as to just whose interests the measures would really serve. Under both proposals, those who are rich enough to hire the best legal help and squirrel away their assets would still be safe from their creditors. Poor and middle-income people who run up big balances on their credit cards--then get hit by divorce, medical bills, or a layoff--would have to

and \$25,000 do. Overall, some 55 to 60 million households carry a credit card debt of more than \$7,000 month to month. Revolving credit is the single largest component of consumer debt, now exceeding \$450 billion--double the figure of five years ago.

Credit cards have become wildly profitable in recent years. According to University of Maryland professor Lawrence Ausubel, the pre-tax return on assets to credit card issuers averaged 1.19 percent between 1971 and 1982 but jumped to 4.5 percent between 1983 and 1993. That fact, plus a change in the way banks finance credit card lending, has led to a dramatic increase in the number of credit cards being offered to consumers. In 1997, one bank alone, mbna, sent out 30 million solicitations per month--and tendered six million offers by phone. "Solicitations are merely advertisements," says William Binzel. "Just as consumers ought not go have a Big Mac every time they see a McDonald's ad, they probably ought not avail themselves of every credit card solicitation they receive." Yes, but enticing risky borrowers is a big reason why credit cards earn twice as much for banks as all other financial services combined. The same customers who are at risk of defaulting are the ones who finance debt with payments at or near the monthly minimum.

With the Gekas bill's dramatic new collection powers at their disposal, credit card issuers will take even more risks on marginal customers. But wouldn't "good customers" benefit? While Binzel claims the Gekas bill would recover \$15 billion--"that's \$150 per household in savings," he boasts--don't count on seeing that money unless you're in the credit card business. There's only a weak correlation between the cost of doing business for credit card issuers and the interest rates they charge customers. In the 1980s, Ausubel points out, "credit card interest rates displayed a profound unresponsiveness to changes in the cost of funds." While market interest rates ranged from six to 14 percent, credit card rates stayed above 18 percent.

Congress should demand more responsibility from both lenders and borrowers. Credit card issuers should be required to tell customers explicitly how long it would take to pay off their balances through monthly minimum payments--and what the total interest bill would be. And, if Gekas truly wants to cut down on the abuse of the bankruptcy system, he should go after true abusers. For example, five states allow bankruptcy-filers to protect a "homestead" of any value, which encourages wealthy filers to sink their assets into multi-million-dollar homes in, say, Florida, while pleading poverty to their creditors. Says an aide to Gekas: "Are there certain people who can continue to put everything into a home and game the system? Probably. Capping the exemptions seemed to us like a good idea. But it's not politically feasible."

Bankruptcy should be a safety net, giving Americans who've failed financially a chance to make a fresh start. Gekas would turn that system on its head, making the bankruptcy process a taxpayer-funded collection service for already hugely profitable credit card issuers. Surely the law needs to encourage responsible financial behavior. Yet the law should also reflect the fact that financial institutions--especially institutions that place credit cards in the hands of so many people who are probably not financially equipped to handle them--are acting irresponsibly, too.

Joshua Wolf Shenk, a former editor of The Washington Monthly, is a freelance writer in New York City.

live by strict new rules.

Of course, those who buy big-screen TVs on credit instead of paying cash for a smaller set should have to face the consequences of their own profligacy. But there should be accountability, too, particularly for credit card companies that aggressively target risky customers because they can make money off them--then complain about the money they lose when these customers go broke. The current bankruptcy proposals, for all their righteous bluster, would only encourage such corporate behavior.

The main purpose of the bills is to limit eligibility for Chapter 7 protection, which allows debtors to erase credit card and other "unsecured" debt so they can devote money to taxes, home loans, and child support. Under the Gekas bill, people who make 75 percent of the median income, adjusted for household size, would have to document their debts and expenses. If they can pay 20 percent of their unsecured debt over five years--according to an IRS formula--they will be ineligible to declare personal bankruptcy.

The problem, many bankruptcy attorneys and judges say, is that the IRS formula underestimates the real cost of living, leaving out such costs as college tuition and child care. (Filers would have to claim these as "extraordinary expenses," which are subject to challenge by creditors.) The new laws would also lock bankruptcyfilers into fixed payments, on the assumption that filers would continue to receive income, even though they tend to be hobbled by job insecurity, continuing medical bills, and other financial problems. The primary effect of mandating payments for unsecured debt would be to divert money to credit card companies that would have otherwise gone to taxes and home payments.

Of course, means-testing bankruptcy-filers has an undeniable appeal. "Right now," argues William Binzel, a spokesman for the credit card industry, "you need not be bankrupt to file for bankruptcy. It's fundamentally unfair to consumers who do repay their bills to allow debtors who can pay to walk away." Binzel and Gekas cite two studies: One, by the Credit Research Center at Georgetown University, found that 25 percent of those filing Chapter 7 bankruptcies could actually repay 30 percent of their unsecured debt. The other, by Ernst and Young, found an average of twelve percent of Chapter 7 filers could repay an average of 74 percent.

But these reports--both underwritten by the credit card industry--are hardly definitive. As the General Accounting Office concluded: "Neither report provides reliable answers to the questions of how many debtors could make some repayment and how much debt they could repay." Indeed, most studies suggest that those declaring bankruptcy need it more than ever. Between 1981 and 1997, the median income of a family in bankruptcy (in 1997 dollars) fell from \$23,254 to \$17,652. "If ... lots of slick guys were declaring bankruptcy," says Elizabeth Warren, a bankruptcy expert at Harvard Law School, "then you should see the median income of the debtors rise, but it is falling."

Here's why: While admirable, Harry Truman's stringent ethic is not necessarily applicable to the age of the credit card. Today, people of all economic classes have access to vast amounts of high-interest credit. More than 25 percent of households with less than \$10,000 of annual income carry credit card debt, and nearly 42 percent of households with an income between \$10,000

COVER STORY

Bankruptcy debate could change the face of debt

By Christine Dugas
USA TODAY

The Senate overwhelmingly approved a sweeping bankruptcy reform bill Wednesday, setting up a battle between the forces of creditors and consumers that ultimately will determine how Americans handle their debt.

With Americans carrying more debt than ever — about \$1.27 trillion not including mortgages — there is a particular urgency to tighten bankruptcy law and stem the alarming rise of personal bankruptcies. The last major overhaul of bankruptcy laws was in 1978.

The legislation, which is aimed at curbing abuses by debtors and creditors, passed the Senate 97-1. It now must be reconciled with an even more stringent bill passed in June by the House of Representatives that would make it harder for consumers to walk away from their debts.

In the three months that ended June 30, per-

sonal bankruptcies were up 5.9% from the first quarter, putting them on track to surpass 1997's record 1.35 million.

"The Senate has recognized that the rise in personal bankruptcies is partly the responsibility of the creditor industry," Harvard law professor Elizabeth Warren says. "Its bill is vastly different in detail and philosophy from the House version. Reconciling the two will not be easy."

Creditors — banks, credit card companies and other lenders — disclaim any responsibility for rising bankrupt-

cies. They have urged Congress to reform the process, arguing that too many people who could afford to repay some of their debts are getting off the hook by filing bankruptcy under Chapter 7, which wipes out most debt.

Both the House and Senate bills would bar some debtors from Chapter 7, based on their in-

come and debt load. They would be forced instead into Chapter 13, a form of bankruptcy that gives debtors some relief but requires them to repay most of what they owe. Last year, 71% of bankruptcies were filed under Chapter 7; 29% were filed under Chapter 13.

Sen. Richard Durbin, D-Ill., co-sponsor of the bill, says he is optimistic that the Senate can push through a bill that retains some consumer protections.

"Clearly, there is going to be resistance from the banking community,"

COVER STORY

he says. "But we're in a strong bargaining position. This bill has exceptionally strong bipartisan support and the support of the administration."

The White House, which promised this year to veto the House bill, said it supports the Senate bill. "We think the Senate bill strikes the right balance between creditors and consumers," White House spokesman Barry Ivie said Wednesday. "And that balance will have to be maintained in any bill that comes out of conference."

Rep. George Gekas, R-Pa., promised to work hard to craft a compromise bill. But almost everyone says it will take a Herculean effort to finish before the House and Senate adjourn for the November elections. There is a big impetus to reach some agreement. If no bill is passed before the new Congress meets in January, the House and Senate would have to start the whole process again.

But there are many opponents of both bills. Creditors support the House version but oppose a number of amendments in the Senate bill that would force them to change some business practices. Though consumer groups prefer the Senate bill, they say it too is flawed.

"Only the Senate bill has any protections for consumers, and it is unclear whether those provisions are strong enough to prevent abusive marketing practices" by creditors, says Gary Klein, director of the National Consumer Law Center.

How the bills differ:

► The House bill establishes a formula for deciding who can file Chapter 7 bankruptcy. Those whose earnings exceed the median family income (\$51,500 for a family of four) and who could afford to repay 20% of their debts over five years would be required to file Chapter 13.

The Senate bill says that if a debtor's earnings exceed the median family income and he can afford to repay 30% of his debt over three years, a judge may require him to file Chapter 13.

► The House bill says any debt incurred within 90 days before filing for bankruptcy and not used to pay for necessities must be repaid.

The Senate version says any debt incurred within 90 days of filing that exceeds \$400 per creditor and is used to pay for unnecessary items cannot be wiped out.

► The Senate bill would require bankruptcy court approval for reaffirmation agreements — private deals between a creditor and debtor to continue paying a bill that otherwise could be discharged in bankruptcy.

► The Senate bill would expand protection for the principal in all tax-qualified retirement accounts and education savings accounts. Current law protects 401(k) plans but not individual retirement accounts and state tax-exempt retirement plans.

► The Senate bill would cap state exemptions for a debtor's home, called homestead exemptions, at \$100,000 under Chapter 7. Some states have unlimited exemptions, which lets debtors buy million-dollar mansions and then file for bankruptcy.

► The Senate bill would require credit card firms to disclose in monthly statements how long it would take to pay off a bill if a customer makes only the minimum payments, and how much interest he would pay.

► The Senate bill would require lenders to include a worksheet with each new credit solicitation allowing consumers to figure how much debt they can afford.

Creditors say the disclosure statements are unnecessary.

"Over one-third of bank card holders pay off their balances in full each month and, of those who do not, the vast majority pay more than the

minimum required," says Thomas Layman, chief economist at Visa USA. And, he says, interest rates can change over time, which would affect the total amount a customer would end up paying.

Consumer groups say the Senate didn't go far enough to curb creditors. For example, senators defeated an amendment that would have required either a parent's signature or proof of income for credit cards issued to anyone under 21.

Perhaps more important, advocacy groups complain that both the Senate and House bills would make it harder for families to collect child support. "We are concerned that custodial parents who go through bankruptcy will end up with more debts that they have to repay," says Joan Entmacher, director of legal and public policy at the National Partnership for Women & Families. "And those debts will compete for money that needs to go to support children."

Says Philip Corwin, a lobbyist for the American Bankers Association: "Next week is going to be a wild week. These are big, complicated bills and there are many differences."

NATO moves toward action in Kosovo

By Steven Komarow
and Lee Michael Katz
USA TODAY

A1
The United States and its NATO allies have moved one step closer to military action against Serb forces in Kosovo, President Clinton said Wednesday, hours after the United Nations demanded a cease-fire in the Yugoslavian province.

NATO forces are moving

"from the planning stage to readiness to act," Clinton said.

He joined an international chorus Wednesday calling for an end to the offensive by Yugoslavian President Slobodan Milosevic against Albanian rebels that has driven tens of thousands of refugees into the mountains as winter sets in.

Defense Secretary William Cohen and other NATO defense ministers meeting in Por-

tugal today were expected to approve a request to begin assembling a military force.

"I don't think it's one that NATO can afford to walk away from," Cohen said Wednesday.

In New York, the U.N. Security Council passed its toughest resolution yet on Kosovo. It demanded a cease-fire and threatened further action if the fighting continues.

The resolution passed 14-0.

China abstained.

Though the resolution can be enforced with military action, it doesn't explicitly authorize NATO intervention.

Washington, however, has said it does not need U.N. authorization to take action.

The tide of refugees swelled after Milosevic in February began the crackdown on ethnic Albanian rebels attempting to break away from Yugoslavia.

Albanians make up 90% of the 2 million people in Kosovo.

Kosovo, Montenegro and dominant Serbia are the three remaining provinces of Yugoslavia.

Though the United States does not support the rebels' bid for independence, it has called upon Milosevic to give them more autonomy.

► Serb assault continues, 4A

Senate Votes to Curb Bankruptcy Abuse by Consumers

By KATHARINE Q. SEELYE

WASHINGTON, Sept. 23 — The Senate voted overwhelmingly today to overhaul the bankruptcy system and make it more difficult for consumers to walk away from debts.

The sweeping clampdown on consumers, especially those who are perceived as able to repay their debts, reflects a strong sense in Congress that widespread abuse of the bankruptcy system has spurred a record number of personal bankruptcies in each of the last three years, despite the booming economy.

In making it harder for debtors to walk away from their unpaid bills, the legislation would help banks and credit-card companies recoup billions of dollars a year.

"The free ride is over," said Senator Charles E. Grassley, the Iowa Republican who shepherded the bill to passage.

The bill passed by a lopsided vote of 97 to 1. Only Senator Paul Wellstone, Democrat of Minnesota, voted against it. Mr. Wellstone said that he was offended by the relentless, multi-million-dollar lobbying effort by banks and credit-card companies on behalf of the bill and that consumers were "left out of the loop."

But today's vote does not guarantee that the bill will become law. The Senate version must now be reconciled with a House bill, which is vastly different, and time is running out for lawmakers to reach an accord.

Not only does Congress plan to adjourn in less than three weeks, but the members who must resolve the differences between the two bills have less time than others. The bills started in the judiciary committees in each house, which means those committees must send members to the joint House-Senate conference to reconcile the bills. But the House Judiciary Committee is so consumed with whether to impeach President Clinton that it seems to have little time for other matters.

"A lot of people are wondering if Judiciary has the time," Mr. Grassley said. "It's a major problem."

The Clinton Administration has left itself considerable leeway for final negotiations on the bill. In a statement of policy, officials said they generally supported the Senate version but wanted a final bill to curtail abuses by creditors, not just debtors. It was not clear whether the

Senate bill, which does address creditor abuse to some degree, went far enough for the Administration.

Both the Senate and House, which passed its bill in June, spurned numerous attempts by Democrats to tighten the rules on banks and credit-card companies to make them more accountable for lending practices that lure consumers, even those already heavily in debt, with solicitations for additional credit.

The Senate version, however, would require banks and credit card companies to disclose to consumers

in every monthly bill how much they will owe over the months — or, more likely, years — in accumulated debt and interest if they make only the minimum payment.

And the Senate bill would crack down on people who move to states like Florida and Texas, which protect them if they put all their money into expensive houses and then file for bankruptcy.

The Administration has called the House bill too stringent. That version, much preferred by the bank and credit-card industries, imposes

an income test on those who seek protection from creditors under Chapter 7, which erases most debt.

But by contrast, the more lenient Senate version gives judges some discretion in determining whether someone files under Chapter 7 or goes through a more rigorous repayment schedule under Chapter 13.

Still, the bills in both houses are grounded in a similar philosophy that the White House seems to share: that filing for bankruptcy has become too easy and, with a record 1.35 million consumers filing in 1997,

unfairly cost American business \$40 billion in that year alone.

Credit-card lending is among the most profitable sectors of the banking industry, which otherwise has little room for growth. The industry estimates that the bills in both houses could help them recoup \$4 billion a year.

Many Democratic Senators who spoke out earlier against the bill wound up voting for it. One, Senator Edward M. Kennedy of Massachusetts, maintains that the Senate version is so preferable to the House version that he wants to strengthen the hand of Senate conferees in negotiating with the House.

But many longtime allies of those Democrats were disappointed with

the vote. Gary Klein, director of the National Consumer Law Center, said the Senate's provisions were better than the House's, but he added, "It is unclear whether those provisions are strong enough to prevent abusive marketing practices prevalent in the extension of consumer credit."

Elizabeth Warren, a Harvard law professor who opposes the bill, applauded the Senate for acknowledging for the first time that credit-card companies were responsible for some consumer debt. But she still argues that it is a bad bill. "How can democratically elected representatives vote to transfer wealth from financially troubled families to corporate lenders who are making record profits?" she asked.

The New York Times

THURSDAY, SEPTEMBER 24, 1998

Excerpts From Greenspan's Congressional Testimony

By Bloomberg News

Following are excerpts from testimony yesterday by Alan Greenspan, the chairman of the Federal Reserve, before the Senate Budget Committee and an exchange between Mr. Greenspan and Senator Judd Gregg, Republican of New Hampshire and a committee member, in a question-and-answer session following the testimony:

When I testified before the Congress in July, I noted that some of the effects of the international crisis had actually been positive for the United States financial markets and economy, for example, by lowering long-term interest rates paid by our households and businesses. However, the most recent, more virulent phase of the crisis has infected our markets as well. Concerns about business profits and a general pulling back from risk-taking in the midst of great uncertainty around the globe have driven down stock prices and pushed up rates on the bonds of lower-rated borrowers. Flows of funds through financial markets have been disrupted, at least temporarily....

There is little evidence to date, however, that foreign problems or the tightening in financial conditions in domestic markets have produced any significant underlying weakness in the American economy as a whole. Moreover, labor markets remain tight and hourly compensation has continued to grow more rapidly. Nonetheless, the increases in overall costs and the C.P.I. have been held to modest levels by reasonably good productivity advances, lower oil prices and foreign competition.

However, looking forward, the restraining effects of recent developments on the U.S. economy are likely to intensify. As I noted in Congressional testimony last week, we can already see signs of

the erosion of production around the edges, especially in manufacturing. Disappointing profits in a number of industries and less rapid expansion of sales suggest some stretching out of capital investment plans in the months ahead. Lower equity prices and higher financing costs should damp household and business spending, and greater uncertainty and risk aversion may also lead to more cautious spending behavior.

When I testified on monetary policy in July, I explained that the Federal Open Market Committee was concerned that high — indeed rising — demand for labor could produce cost pressures on our economy that would disrupt the ongoing expansion. I also noted that a high real Federal funds rate was a necessary offset to expansionary conditions elsewhere in financial markets. By mid-August, the committee believed that disruptions abroad and more cautious behavior by investors at home meant that the risks to the expansion had become evenly balanced. Since then, deteriorating foreign economies and their spillover to domestic markets have increased the possibility that the slowdown in the growth of the American economy will be more than sufficient to hold inflation in check....

MR. GREGG Mr. Chairman, you talked about the need for an ad hoc remedy at this time because you can't put in place the long-term actions which would require — which are required to get what you think is a sound financial process throughout the world. Would part of that ad hoc remedy or an element of that ad hoc remedy be constructively impacted by a rate cut in the United States?

MR. GREENSPAN I thought that would be the second or third question.

MR. GREGG: Let's get it out early, you know.

MR. GREENSPAN Obviously, I can't be directly responsive to that question. All I can say to you —

MR. GREGG: I'm talking about in theoretical terms, in the ad hoc — in the ad hoc remedy concept.

MR. GREENSPAN I got the point. I've been able to string more words into fewer ideas than anybody I know, and I'm continuing to do that.

Let me say this: that I and my colleagues at the F.O.M.C. and amongst the central bank governors are pretty much engaged on a day-by-day basis — in many cases, hourly, hour-by-hour — in watching the processes that are going on and trying to understand them better.

I do think we're getting and perhaps we'll reach some conclusions as to what is fundamentally wrong, meaning what are the shortfalls in the existing system, similar to the types of notions which I raised in my prepared remarks.

But I do think that we have to bring the existing instabilities to a level of stability reasonably shortly, to prevent the contagion from really spilling over and creating some very significant further difficulties for all of us.

I can't comment on this particular stage what particular actions will or will not be taken. But I really would suggest to you that I think we know where we have to go. I think we understand the process. I do not think we underestimate the severity of the problems with which we are dealing. But exactly what instruments we will employ and well — and when they will be employed — I'm not at liberty at this stage to offer it, because I'm not the only person involved in making those decisions.

THURSDAY, SEPTEMBER 24, 1998
The New York Times

Bankruptcy's Personal Toll

Consumers Get Blamed for Debt Crisis, but Creditors Play Role Too

Ann doesn't view herself as a deadbeat debtor.

True, she plans to file for bankruptcy protection, but says she's not trying to shirk her financial responsibilities. She just doesn't know what else to do.

"I've had sleepless nights from this," said the 48-year-old substitute teacher from Prince George's County. "I wonder who will know or who will find out. I don't want anybody to know."

THE COLOR OF MONEY

Michelle Singletary

But Ann, who was too embarrassed to give her last name, is just the type of consumer Congress has in mind last week when lawmakers debated changes to the nation's bankruptcy laws. Advocates of this overhaul want her and other people like her to stop using the bankruptcy system as a way to get out of paying their creditors.

Alarmed by the rise in personal bankruptcies and pushed by heavy lobbying from credit card companies, the Senate passed legislation last week that would make it harder for people to wipe away their debts by filing for bankruptcy protection. Under the measure passed by the Senate, debtors who could pay off 30 percent of their debts would no longer entirely erase their liabilities. In June, the House passed an even tougher measure. The White House favors the Senate's version and has indicated President Clinton would sign the legislation.

Congress was trying to send a message that consumers with decent incomes who pile up huge debts, especially on credit cards, should be forced to pay back something.

"In all honesty, I agree with them," Ann said. "But then they need to be in my shoes to see how tough it is."

Ann says she has been trying to pay her debts, which at one point climbed to \$129,000—more than three times her annual salary. In all, she had 30 credit cards with a total credit line of about \$150,000.

Ann acknowledges that she charged like there was no tomorrow. In addition to buying herself some things with credit cards, when friends needed money she took out advances on the cards or drew down her lines of credit at her bank. When her parents needed improvements on their home or new appliances, she charged it. When family or friends needed a down payment for a home or car, she lent them money.

Her rationale for all this spending over 20 years: "I just felt guilty for what I had and what my family and friends didn't. It was stupid," she said soberly.

For a while Ann tried to pay back her creditors. At first she paid just the minimum balances, but that wasn't making a big enough dent in the debt.

About a year ago she visited a counselor at Consumer Credit Counseling Service, which helps

Highlights of the Bills

Key features of Senate and House bills to overhaul the bankruptcy laws:

Senate:

- Requires bankruptcy judges to consider a debtor's ability to repay in deciding how the debtor is treated. People generally would be required to file for financial reorganization under Chapter 13, subject to a court-ordered repayment plan, if they can pay back 30 percent or more of their debt within three years. Credit card companies complain that too many people take shelter under the more lenient Chapter 7, which erases debts.
- Requires that credit card bills show how long it would take consumers to pay off their debts by paying the monthly minimum amount and what their total payments would be, including interest.
- Bars credit card companies from dropping consumers who pay their full balances or charging them special fees.

House:

- Establishes a "means" test for people filing for bankruptcy court protection from creditors. It would require people earning at least the median U.S. income, about \$51,000 for a family of four, to file for financial reorganization under Chapter 13, subject to a court-ordered repayment plan, if they can pay back 20 percent of their debt within five years.
- Considers nondischargeable—meaning it can't be erased or written down—credit card debt incurred 90 days before an individual files for bankruptcy.

SOURCE: Associated Press



financially overwhelmed debtors work out a repayment plan with creditors. Each month on the 18th, she dropped off a check for \$2,500.

But that whopping payment—more than most people's monthly mortgage—became impossible to make when her annual income dropped from \$50,000 to about \$30,000.

"I'm working six days a week. It was just a strain. I just thought, 'Maybe I've suffered enough,'" Ann said.

So she went to see a bankruptcy lawyer.

"I just needed to get a little bit of relief," she said.

Ann did what many consumers are doing. She kept accepting credit cards and using them because she kept getting seductive offers.

In the end, Ann may have charged herself into bankruptcy, but the banks were there bankrolling her all the way.

So now come the credit card companies complaining about the surge in personal bankruptcies. And what do they do? Do they stop sending solicitations to people who are already strapped?

No.

Instead, they gripe to Congress about losses from consumers they overloaded with credit. They argue that bankruptcy is too easy so consumers don't think twice about sticking them with their debt.

As a reporter, I covered bankruptcy for several years. I've sat in dozens of bankruptcy hearings. Never once, however, did I see a debtor gleefully sprint from the courtroom pleased, to have been able to wipe out all those bills.

Instead, I saw women, men, elderly couples, single mothers and out-of-work people trembling, teary-eyed and terrified that someone would find out that they couldn't handle their finances. I honestly

believe that most people want to do the right thing and pay back their creditors.

Yet it's tough to disagree with creditors who say too many people are taking shelter from their financial obligations under bankruptcy's lenient Chapter 7, which allows consumers to avoid paying off their unsecured debts.

But in hashing out the differences between legislation passed by the House and the Senate, creditors should shoulder more responsibility. Congress should beef up requirements that creditors show consumers, in their monthly statements, how long it would take them to pay off their debts by paying just the minimum monthly amounts, including interest.

In addition, creditors should be required to have consumers complete a work sheet to determine if they can handle more credit card debt based on their current bills and income.

Congress is right to try to close the loopholes that exist for high-income debtors, who could pay back their debts but choose instead to walk away. But what they are proposing doesn't do enough to hold creditors accountable for their part in creating the bankruptcy crisis.

Michelle Singletary's column appears in this section every Sunday. She can be heard on the "Insight" program with Herman Washington on WHUR (96.3 FM) on Mondays at 6:40 p.m. Tomorrow's show will focus on changes in bankruptcy laws. Her e-mail address is singletarym@washpost.com. Readers can write to her at The Washington Post, 1150 15th St. NW, Washington, D.C. 20071.

The Washington Post

SUNDAY, SEPTEMBER 27, 1998

WORLD

In Brief

AFRICA

1,000 Lesotho Soldiers Give Up Revolt

MASTRU, Lesotho—About 1,000 of Lesotho's 2,000 soldiers returned to their barracks yesterday after days of clashes with South African troops sent in to quell a military revolt in the mountainous kingdom.

South African Col. Jorrie Jordaan told Lesotho troops to return to duty by Monday and to turn in their weapons. He said intervention troops would hunt for any soldiers who did not do so. This week, South Africa and nearby Botswana sent about 1,000 troops to Lesotho, a poor country of 2 million people surrounded by South Africa, after the government requested help dealing with an army mutiny and crippling strikes.

FBI Searches House in Kenya Bomb Probe

NAIROBI—FBI agents again searched a home on the outskirts of Nairobi believed to have been rented by a suspect in the U.S. Embassy bombing, the home's new tenants said. An American couple said FBI agents who had searched the house shortly after the Aug. 7 bombing that killed 254 people returned Thursday but were allowed to check only the yard and the exterior of the home. The couple refused to give their names or comment further about the house. Phone calls placed to the FBI office in Nairobi were not answered.



BY FRANÇOIS MORI—ASSOCIATED PRESS

French Protest Use of Land Mines

A child heaves shoes atop thousands of pairs in Paris at a demonstration urging France to help remove land mines and aid people maimed by the weapons worldwide. Similar events were held in 11 other French cities.

EUROPE

U.N. Official Visits Refugees in Kosovo

PRISTINA, Yugoslavia—The U.N.'s refugee chief visited terrified ethnic Albanians sheltering in a village mosque in Kosovo province and promised to try to protect them from Serbian forces who drove them from their homes in the Cicavica mountains.

"We saw people who were totally traumatized, almost in a coma" from fear, Sadako Ogata, the high commissioner for refugees, said after traveling to Resnik, northern Kosovo, where about 2,000 Kosovo Albanians have taken refuge in and around the mosque.

Meanwhile, the ethnic Albanian Kosovo Information Center said that 12 people died in fighting in the Drenica region of central Kosovo.

THE MIDDLE EAST

Iran to Begin Maneuvers on Afghan Border

TEHRAN—Iran, which has massed 270,000 troops on the border with Afghanistan, said it would begin maneuvers in the tense region within a week. Iran has mobilized 200,000 regular troops with tanks, artillery and other weapons in the border area in addition to 70,000 Revolutionary Guards who staged exercises there earlier this month.

Iran and Afghanistan's ruling Taliban movement are locked in a war of words over the killing of several Iranian diplomats and a journalist by Taliban fighters in August.

ASIA

Japanese Concur on Measures to Aid Banks

TOKYO—Japan's ruling party and main opposition groups agreed to nationalize the ailing Long-Term Credit Bank of Japan and allow public money to be used to help the troubled banking sector.

The broad agreement—by the ruling Liberal Democratic Party and opposition Democratic Party and Heiwa Kaikaku group—is expected to clear the way for the passage of financial sector bills through parliament by Oct. 7.

Chinese Dissident to Remain in Custody

BEIJING—Chinese police plan to keep a democracy campaigner in custody for at least 15 days for trying to set up an opposition political party, a rights group reported. Police in eastern Shandong province notified Xie Wanjun's family on Thursday that he was being held under a 15-day detention order for passing information on the China Democracy Party, said the Information Center for Human Rights and Democratic Movement.

THE AMERICAS

Jamaican Civilians, Forces End Clashes

KINGSTON, Jamaica—Calm returned to Jamaica's capital after three days of clashes between residents and security forces during which three people were killed. Police and soldiers continued to patrol the streets of the capital.

The violence began Wednesday when Donald Phipps, described as an area leader and benefactor in the Mathews Lane district, was detained by the police after allegations that he had been involved in an attempted murder. When rumors spread that the police had shot the suspect, hundreds of his supporters went on the rampage.

FOR THE RECORD

■ **BRUSSELS**—Thousands of people gathered at Saint Michel cathedral for a religious ceremony in memory of a Nigerian woman who died this week after police tried to deport her to Africa. Her death caused a public outcry over Belgium's asylum policy and led Interior Minister Louis Tobback to offer his resignation.

■ **ASMARA, Eritrea**—Eritrea has denied an Ethiopian claim that it is carrying out ethnic cleansing by systematically deporting Ethiopians living there, saying thousands had left on their own since a border dispute flared in May.

QUOTE OF THE DAY

"They have brought us peace and security. The people are happy. Islamic law is so beautiful. There is no more corruption."

Afghan cobbler describing life under the Taliban—Page A1

—Compiled from news reports

The Washington Post

SUNDAY, SEPTEMBER 27, 1998

>>
>>(Newsday; 07/24/98)
>>
>>Washington - Sen. Alfonse D'Amato (R-N.Y.) vowed yesterday to attach his
bill
>>to bar banks from charging extra fees on automatic teller machine
>>transactions to broad legislation overhauling the nation's **bankruptcy**
>>code.
>>
>>The move angered advocates on both sides of the issues. Bankers, who favor
>>the **bankruptcy** bill but oppose the ATM double-charge bill, said such a
>>move would doom both measures. Consumer advocates, who favor the ATM bill
but
>>oppose the **bankruptcy** legislation, said the ATM provision wouldn't make
>>the **bankruptcy** measure any more palatable to them.
>>
>>D'Amato said the **bankruptcy** bill is quite likely to pass, so he felt it
>>was appropriate to include the ATM measure "to help consumers to some
>>extent." The **bankruptcy** bill, a version of which previously passed in
the
>>House, is aimed at making it harder for consumers to go bankrupt. Supported
>>by Senate Majority Leader Trent Lott (R-Miss.), it is likely to come before
>>the Senate in September.
>>
>>"The banking bill is going to pass with broad bipartisan support, so I'm
>>using it as the vehicle" for the ATM bill, D'Amato said. He said bankers
>>"want to get it {the
>>
>>**bankruptcy** bill} up and out."
>>
>>But Ed Yingling, lobbyist for the American Bankers Association, said
>>D'Amato's move "is a very bad idea. Both the ATM bill and the **bankruptcy**
>>bill would be killed. Bankers would turn against the **bankruptcy** bill if
>>it includes a federally imposed price control of zero on a product. You
can't
>>have a product with no price."
>>
>>Blair Horner, legislative director of the New York Public Interest Research
>>Group, which has backed the ATM bill but opposed the **bankruptcy** bill,
>>said of D'Amato, "If he had asked us, we would have said, 'Don't do it.'
>>Robbing Peter to pay Paul doesn't seem to be the right thing to do."
>>

>>D'Amato, who has collected thousands of dollars from the banking industry
for
>>his re-election campaign, has taken pains to shore up his image with
>>consumers, also supporting a move to eliminate alimony and child support
>>payments from being subject to attachment by creditors under ****bankruptcy****
>>law.
>>
>>Consumer groups, however, oppose the ****bankruptcy**** bill, arguing that banks
>>entice consumers to accumulate debt with attractive credit card offers, but
>>now want to hammer them with tough ****bankruptc**** laws.
>>
>>John Hall, an American Bankers spokesman, said the ATM fee measure would
>>force the shutdown of "thousands of ATMs" and an end to expansion of ATMs
>>into convenience stores and shopping malls.
>>
>>D'Amato called that "hokum." He said that banks only recently began charging
>>about \$1.50 for a transaction at a machine not owned by the consumer's home
>>bank and that three-quarters of the machines were installed before the
>>double-charging.
>>
>>He said ATM fees cost the average family making six withdrawals a month \$193
>>annually "to get their own money."
>>
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>>_____via IntelliX_____
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LEVEL 1 - 3 OF 4 STORIES

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Chicago Tribune

July 5, 1998 Sunday, CHICAGOLAND FINAL EDITION

SECTION: BUSINESS; Pg. 6; ZONE: C

LENGTH: 1442 words

HEADLINE: BANKRUPTCY BECOMING PROSPERITY'S PARTNER;
LARGELY A DECLARATION OF THE MIDDLE CLASS

BYLINE: By Kathy Bergen, Tribune Staff Writer.

BODY:

The eight-year-old economic expansion is rolling on, dropping the unemployment rate to a 28-year low this spring--yet record numbers of Americans are declaring bankruptcy.

The seeming anomaly raises the question: Who are these financial failures and what is their problem?

Well, look around next time you're on the bus, at the beach or in line at the supermarket. Or, more to the point for some folks, take a good long look in the mirror.

"They are middle-class--that's what's scary about this," said Elizabeth Warren, a professor at Harvard Law School and a leading expert on personal bankruptcy. "They are not marginal workers. They are you and me, they are our neighbors."

And their problems are anything but unique: job dislocation, divorce, uninsured health-care costs and heavy debt loads accrued in an environment in which credit is widely and easily available.

"As things have been getting better generally, they are the friction in the system--they are falling in the other direction," Warren said. "As American business gets leaner and meaner and more efficient, these are the people who personally have paid for it."

The question of who is filing for personal bankruptcy, and why, is a pressing one on Capitol Hill this summer as Congress attempts to halt the surge in filings by revising laws that allow the bankrupt to get out from under their debts.

As of last fall, an estimated one in every 96 American families had taken refuge in the nation's bankruptcy system.

In fact, personal bankruptcy filings shot up 20 percent last year, to 1.35



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Chicago Tribune, July 5, 1998

million, according to the American Bankruptcy Institute. That's a 145 percent increase from annual levels just 10 years earlier, when filings totaled 549,831.

Last month, the House approved a measure that would make it harder for debtors to seek protection from creditors under Chapter 7 of the bankruptcy code.

Those earning more than the nation's median income--about \$51,000 for a family of four--would be unable to have their debts forgiven under Chapter 7 if they were deemed able to pay their secured loans, such as mortgages, and to pay back at least 20 percent of their unsecured debt within five years.

Instead, they would have to use Chapter 13, which sets up repayment plans.

A milder Senate version is expected to come to the floor later this month.

"I think some version will get approved this summer," said Sen. Dick Durbin (D-Ill.), a somewhat-reluctant co-sponsor of the Senate bill who would like to see some additional requirements placed on the credit industry as well.

Assessing and addressing the bankruptcy problem is no easy task, particularly because the government collects little data on filers.

"It's like designing a mousetrap without knowing what the mouse looks like," said Karen Gross, a professor at New York Law School who specializes in bankruptcy.

Essentially, interested parties must piece together a patchwork quilt, pulling from myriad reports and research papers, all of which are based on limited samples of debtors and many of which are underwritten by special-interest groups, such as the credit-card industry.

Still, some patterns emerge.

The median income for a bankrupt family of four is about \$23,000, or less than half the national median, according to Harvard's Warren.

And such a family's consumer debt, which doesn't include a mortgage, outstrips income by a ratio of 1.62 to 1, she said. This means a family with a \$20,000 income would have \$32,400 in debt.

More than 75 percent of filers are employed, noted a 1997 study funded by Visa and MasterCard, but fewer than 50 percent are married.

In fact, divorced people are over-represented, noted University of Texas graduate dean Teresa A. Sullivan, who researched the subject with Warren for their coming book, "The Fragile Middle Class."

But the most significant determinant, according to Warren, is a dramatic life change--a job loss, a divorce, a catastrophic illness-- that results in sharply reduced income.

"You can live on \$22,000--people do it all the time," she said. "But not if you are used to \$56,000 and you acquired your debt at \$56,000."

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Chicago Tribune, July 5, 1998

Indeed, medical problems and a divorce were among the factors that led Diane, a 40-year-old mother of two, toward a Chapter 13 bankruptcy.

Financial problems for Diane, who asked that her last name not be used, started in 1994, when she missed six months of work due to complications surrounding her second pregnancy.

"I was borrowing money off credit cards to pay my bills when I wasn't getting paid," recalled Diane, a Northwest Side resident who is a customer-service representative with a major Chicago-area employer.

In 1996, she divorced and her family income plummeted from \$95,000 to \$45,000. With only one income, she found she was unable to keep the two-flat she lived in with her children.

She sold it, but then hurried to find another place to live. "I wanted to stay in the neighborhood and I wanted stability for my kids," she said, explaining a decision to buy a single-family home that has turned out to be a tremendous financial burden.

She fell behind on the mortgage last December, when she missed close to two months of work due to surgery. The mortgage burden, together with a car note, \$12,000 in credit-card debt and \$450 a month in parochial school tuition for her older child, proved too much, and in February, she filed for Chapter 13 bankruptcy protection.

Still, relief has eluded her. Her monthly repayment is \$1,800, or most of her take-home pay, so she struggles to get by on \$450 monthly child-support payments and any overtime she can get.

"I'm thinking about changing to Chapter 7," she said. "Chapter 13 is not working for me."

In fact, Chapter 7 has provided tremendous relief for another Chicago-area resident, Lawrence Evert, whose financial difficulties also started when his health faltered.

The 49-year-old resident of south suburban Frankfort suffered a life-threatening stroke in 1996 and was left with \$8,000 to \$9,000 in disallowed medical expenses.

"That started the ball rolling," said Evert, a property manager for a company that owns shopping centers. He also went through a divorce, and started relying on credit cards to furnish a new place and cover expenses.

"The credit kept being available and I kept using it," he said.

Last October, he sized up his finances and found he had unsecured debt of \$43,000, and an annual income of about \$40,000. In November, he filed for Chapter 7, which allowed him to discharge his debt.

Nationally, the debt forgiven in personal bankruptcies cost the economy \$44 billion in 1997, noted Michael McGarry, a spokesman for Visa USA Inc. That translates into \$400 per American family in higher prices paid for goods, services and loans.



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Chicago Tribune, July 5, 1998

The soaring numbers of filings and the high tab have raised questions about whether the system is being abused by high-spending, irresponsible consumers.

Yet research reports and interviews with experts indicate that while some abuse certainly exists, it is a relatively minor factor.

"While some debtors in bankruptcy no doubt file for reasons that are illegitimate, most families come to bankruptcy courts as they have for many years--seeking relief from debts they have virtually no hope of repaying," stated a report issued by the National Bankruptcy Review Commission last fall.

A major difference now is "unprecedented access" to consumer credit, according to the panel, formed by Congress to study the issue. Between 1977 and 1997, consumer debt has grown 700 percent, to \$1.2 trillion in 1997.

"I don't see, and have never seen, lots of professional people making \$100,000 a year filing bankruptcy to discharge credit-card debt," said Catherine Steege, a partner at the law firm of Jenner & Block who also serves as a Chapter 7 bankruptcy trustee in Chicago.

"I see people who, when thrown the opportunity to get easy cash, grab it, because they do not have a lot of other avenues," she said. "So they are in terrible situations where they can't keep up."

Observers also think the stigma of filing for bankruptcy is disappearing, leading more people to take that route.

"In a world where Continental Airlines, Bergner and Texaco file for bankruptcy and survive . . . the stigma is reduced across the board," said Robert Fishman, a Chicago attorney who is immediate past president of the American Bankruptcy Institute. "If people see Fortune 500 companies using it as a business tool, they think, 'Why not me?'"

GRAPHIC: PHOTO GRAPHICGRAPHIC (color): Personal bankruptcies continue climb; Source: American Bankruptcy Institute; Chicago Tribune.; - See microfilm for complete graphic.; PHOTO: Catherine Steege, a Chapter 7 bankruptcy trustee, says people find themselves "in terrible situations." Tribune photo by Milbert Orlando Brown.

LANGUAGE: ENGLISH

LOAD-DATE: August 3, 1998



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LEVEL 1 - 2 OF 4 STORIES

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BCD News and Comment

July 21, 1998

SECTION: Vol. 32, No. 19

LENGTH: 548 words

HEADLINE: The Press Picks Up Findings of Debunked Credit Industry Study

BODY:

Harvard Law School Professor Elizabeth Warren is not the only academic who is critical of the Credit Research Center's credit industry commissioned study on debtors. Four other academics also questioned the study in letters to the National Bankruptcy Review Commission as did the General Accounting Office.

As Warren notes in her recent article, "The Bankruptcy Crisis," to be published in the Indiana Law Journal: "The CBO review ... raised concerns about the abbreviated reporting of the data that 'make it impossible to determine the reliability of the study's findings.' The analysis raised questions regarding unfounded assumptions about current income, future income, current expenses, future expenses, amount of indebtedness, the representativeness of the sample, data-collection techniques, sample weighting methods, and inaccurate data comparisons. For multiple reasons therefore, the CBO report concluded that the credit industry study was 'misleading' and it 'overstat[ed]' capacity to repay. The coauthor of the study, Michael Staten, made an angry rebuttal to the CBO analysis before the report was made public. Later, [the CBO] reviewed Dr. Staten's comments, and further analyzed some new data presented, discovering added evidence that the study 'overstate[s the debtors'] repayment capacity.'"

Despite the criticism, the credit industry sent out press releases that touted the finding that 40 percent of debtors could repay some of their debts. Warren chronicles what happened next:

"Newsweek magazine ... ran an article entitled "Deadbeat Nation" in which it noted that creditors blame debtor abuse for the rise in bankruptcies: 'one study says 45 percent of bankruptcy filers could pay back much of their debt.' Nowhere does the article point out that the quoted statistic comes from the industry's own study. Three months later, The Los Angeles Times, lamenting creditor abuse said, '[m]uch of [consumers'] debt relief is simply unwarranted. Experts say that about 45 percent of Americans who seek complete relief from their debts through Chapter 7 personal bankruptcy filings could afford to pay off an average of one-third of their debts within three years.' Again, there is no indication in the piece that the only 'experts' who claim such numbers are those funded by the credit industry. USA Today picked up the same information for its editorial on consumer bankruptcy: 'Purdue University researchers found a third of debtors could pay some of their bills but don't.'"

"Former Senator Lloyd Bentsen wrote an op-ed for The Washington Times proclaiming, '[a]ccording to a Purdue University study, nearly half of the people who file for bankruptcy could repay a significant amount of their



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outstanding obligations, but instead choose to renege.' Mr. Bentsen also failed to disclose in his op-ed that he had been hired earlier that month by the credit industry to lobby his former colleagues in the Senate to adopt harsher bankruptcy laws. His conclusions about bankruptcy abuse were cited in turn by Congressman [George] Gekas, [R-PA], in his press release accompanying introduction of a means-tested bankruptcy bill, again without notation of Mr. Bentsen's lobbyist status or the credit industry as the source of the underlying research."

LANGUAGE: ENGLISH

LOAD-DATE: August 3, 1998



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BCD News and Comment

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SECTION: Vol. 32, No. 19

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HEADLINE: Debtors Getting Poorer Warren Challenges Creditor Findings in New Study

BODY:

The credit industry would have you believe that millions of consumers are using the bankruptcy system to take advantage of their creditors by failing to repay debts they could easily afford. In fact, they say, this problem has reached crisis proportions and can only be solved by completely reforming the Bankruptcy Code.

But, in a new study, to be published in an upcoming issue of the Indiana Law Journal, Harvard Law School Professor Elizabeth Warren finds that this perception is far from reality. Instead of a country filled with rich debtors who have nothing better to do than rip off their creditors, Warren finds that debtors from 1981 to 1997 got significantly poorer. In fact, the median income in 1997 dollars of Chapter 7 debtors fell from a whopping 23,254 in 1981 to an even more pathetic 17,552 in 1997 (see Chart No. 1, p. A9).*

In addition, the ratio of debt-to-income is not improving. Indeed, Warren finds the median nonmortgage debt-to-income ratios for Chapter 7 debtors "has remained remarkably consistent (see Chart No. 2, p. A9)." If anything, the debt load is increasing.

This data -- and the data Warren analyzes from the statistical studies to date -- shows that there is a crisis all right, but it's not one of abusive filings.

"Is there a bankruptcy crisis?" Warren asks. "In one sense, the answer is 'no.' The system is not in crisis; the evidence points toward a consistent use over time of consumer bankruptcy by the same kinds of families -- families in serious financial trouble. Despite the credit industry's repeated assertions, no credible evidence to the contrary exists.

"But in another sense, these data demonstrate an undeniable crisis. Every personal bankruptcy filing represents a family crisis. ... Everyone wants to be a success in the American competition for prosperity; bankruptcy singles out those who did not make it."

Warren finds then that the reason for the rise in consumer bankruptcies has nothing to do with abusive filings. Rather, it is caused by the fact that, since 1981, debtors have gotten poorer while their debts have remained "remarkably consistent."



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She says the credit industry would have you believe that the solution to increased filings is as easy as closing the doors to the bankruptcy courts. Instead, she says, "We should be haunted by questions about why so many

Americans are losers in the great financial game of life. ... To understand these failures, inquiries must reach well beyond the bankruptcy system. The coverage and stiffness of the social safety net, the implications of lack of medical insurance, job layoffs and downsizing, growth in the availability of subprime consumer debt at effective annual interest rates of 30 and 40 percent, and irresponsible purchasing should prompt both scholarly and political inquiry. ... [L]owering the bankruptcy filing rate should not be an end in itself; a decline in rates is good only if it is a sign that fewer families are failing [emphasis supplied]."

Those who attended the annual meeting of the National Conference of Bankruptcy Judges in San Antonio will remember Warren debunking the research of Bradley & Rosensweig to a standing room only crowd. In this article, she does much the same with studies commissioned by Visa Inc. and by the Credit Research Center, originally located at Purdue University and recently relocated to Georgetown University with its director, Michael Staten (see sidebar, p. A11 for more). But this time she has help from the General Accounting Office (see BCD, Vol. 31, Iss. 25, p. A3 for concerns the GAO had about the CRC report).

"When the credibility of the CRC study was challenged, the credit industry responded by hiring more studies," Warren says. The industry paid for studies by Ernst & Young and by the WEFA Group, but she says the GAO found similar faults with these studies.

"Even when the credit industry paid for its own study, it couldn't generate much evidence that there were substantial numbers of debtors abusing the system," Warren said in a followup interview. "It's one of those images that has gone forward with no factual underpinning -- it's only sound bites and a willingness to believe that our fellow citizens are bad people."

How did those sound bites enter the popular consciousness? As Warren points out, the credit industry knows how to use the media (see sidebar pg. A11).

However, Warren essentially says that the credit industry should be careful of what it wishes:

"While it does not highlight this finding, the ... [CRC] report indicates what proportion of the debt listed in Chapter 7 would be repaid. If each debtor were examined in a complex infrastructure at no cost to the creditors, and if all the optimistic assumptions of the credit industry researchers held true, the industry could collect about 1.21 percent of its outstanding 'nonhousing debt' each year for five years. It is interesting to speculate whether this return would outweigh the administrative costs to the creditors of maintaining an open, interest-free account for five years.

"In order to produce that return for the creditors, the taxpayers would be charged with building an elaborate bureaucratic structure to review the debtors' files and with providing hearings for debtors who dispute their creditors' claims that they could repay. Whether the increase in administrative costs, including trustee fees, debtors' and creditors' lawyers' fees, court costs, filing and tracking costs, and mailing costs would outweigh any increase in



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creditor collection is beyond the scope of the credit industry study."

The Logic Behind Warren's Study

In preparing to do her own study, Warren examined existing research. The results of study after study, including research done by government agencies such as the CBO and the Federal Deposit Insurance Corp., show that there is a simple answer to the question: Why are consumer bankruptcies increasing? "[C]onsumer bankruptcies are rising because consumers' debts are rising faster than their incomes."

Although strong statistical evidence supports this assertion, the credit industry claims that the rise in filings is a result of increased consumer abuse. By abuse, the credit industry appears to mean that a large percentage of debtors are using the bankruptcy system when they could afford to repay their debts.

But Warren says if this assertion is to be credible, the industry must develop evidence of systematic abuse.

"One can fully account for the current rise in filings and leave no room for the inference that the rise is prompted by abusive filers," she writes. "If debtors behave precisely as they have for decades -- declaring bankruptcy more often when they carry more debt and declaring bankruptcy less often when they carry less debt -- the rise in consumer filings is entirely predictable. ... To rebut the inference that the rise is linked to increased debt loads, as it has been for decades, evidence of abuse must be strong enough to demonstrate enough systematic abuse to account for a significant rise in filings."

Warren says "outrageous anecdotes" won't do. They may highlight legal loopholes that should be closed (indeed the National Bankruptcy Review Commission sought to do just this), "but they cannot constitute the sole basis for radical changes to the policy and structure of an entire system."

She notes that the credit industry is promoting a radical change in bankruptcy law as a response to a crisis. If all we're talking about is occasional abuses at the margin, then Warren says the debate and the proposed solutions should be very different.

As we said earlier, Warren spends a large portion of the study discrediting the credit industry studies that attempt to show systematic abuse. She then sets up the basis for her own study.

"If the sharp rise in consumer bankruptcies is attributable to a sharp increase in debtor abuse, then the basic financial profiles of the filers ought to change over time: the addition of more affluent debtors should increase both the mean and the median incomes or lower the relative size of the debts, demonstrating their relatively better ability to repay debts."

Warren notes the limitations in her own data, but says the suggestion of a trend is strong: Over the 17-year period her study covered, "income among the pool of bankruptcy debtors declines significantly."

Of course, she says, poorer debtors could still abuse the system if their



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incomes were declining but their debts were declining even faster. That's the reason for looking at debt-to-income ratios, which she shows have remained "remarkably consistent" since 1981.

She notes that while her data do not prove the contention that it credit-granting policies have caused this rise in debt loads, she says the current data is consistent with this point.

"The Federal Reserve's Survey of Consumer Finance notes that while debt burdens are generally falling for families with incomes above 50,000, families with incomes below 10,000 are increasing their debt loads. ... The fastest-growing credit issuers in the past five years have been companies that specialize in loans to borrowers with poor credit histories, the so-called subprime market. Although losses are substantial, effective interest rates of 18 to 40 percent make this kind of lending profitable. ... As more creditors extend loans to lower-income people and to people out of work and otherwise in credit trouble, it would not be surprising if the bankruptcy pool expanded to include people with lower and lower incomes."

Warren's study supports what virtually everyone in the bankruptcy community has been saying. Will Congress listen to hard data instead of the numbers in a study paid for by a special interest group -- a study that have been called into question by a government agency?

Warren is not optimistic. "Unfortunately, there are no PACs for families making 17,552 and who are in terrible financial shape."

*Note: Warren says she owes a debt to the following people: Dr. Teresa Sullivan and Professor Jay Westbrook, who not only helped produce much of the data that are central to the discussion in her paper, but who provided useful comments in the construction of the paper. Also, Professors Marianne Culhane and Michaela White, who permitted her access to their 1995 data from their study on reaffirmations and to Judge Barbara Sellers, who collected the raw data from the 1997 Ohio sample, which she was kind enough to permit her to analyze and report on. Finally, she thanks Melissa Jacoby for her comments and insights.

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THE WHITE HOUSE

Office of the Press Secretary

Embargoed For Release
Until 10:06 A.M. EDT
Saturday, May 9, 1998

RADIO ADDRESS OF THE PRESIDENT
TO THE NATION

The Oval Office

THE PRESIDENT: Good morning. Tomorrow is Mother's Day, a special moment to express the gratitude, respect, and love we feel all year round. Our mothers give us life; they offer us unconditional love, strong guidance, and the sense that we can grow up to do anything we can dream of. From our first moments, mothers are our best teachers and most selfless friends. And, like my own mother, whom I miss very much, especially on Mother's Day, they rarely ask for thanks. A mother's main wish is to see her children grow up healthy and happy.

Today, I want to talk about a few ways we, here in Washington, can give all mothers that peace of mind, whether they work in an office, a factory, a hospital, or at home. To make that tribute to motherhood, we must all take responsibility for the care of our children. For many mothers who work, as my mother did, peace of mind requires affordable, quality child care. Millions of American women have full-time jobs outside the home. Three of five mothers with children under six are working to meet their obligations to their children and their employers. Juggling those responsibilities is even more difficult when quality child care is either hard to find or too expensive to afford.

That's why I've included in my balanced budget a significant new investment in child care. I urge Congress to join me in making child care better, safer and more affordable for those who need it.

To help parents find the best care for their children,

today I'm releasing a report by the Department of Health and Human Services. It's a consumer guide to child care quality that recommends four steps for parents: One, interview the potential care-givers; two, check the references; three, evaluate how the care-giver meets your child's needs; and four, stay involved. As Mother's Day reminds us, governments don't raise children, parents do. There is no substitute for a mother's love or a parent's responsibility.

We, too, in the national and state governments, however, have a responsibility; a big one is to protect America's children from abuse and neglect. Nothing gives mothers peace of mind like the knowledge their children are in safe hands. Today I'm also releasing a new Justice Department set of guidelines for screening child care workers and other care-givers; and again, I urge Congress to act on a proposal I put forth to facilitate background checks on child care-givers. There is strong bipartisan support for this proposal, and I'm hopeful that members of both parties will move quickly to give America's children the care they deserve.

There is one other thing I'd like to talk about that we must do to protect our children. Fathers must take their share of responsibility, too. Children deserve to be raised by both parents, but when that's not possible, children must still receive the support they need. The unfortunate division of families cannot mean the end of child support. That's why we have worked so hard to toughen enforcement of child support laws; and, since 1992, we've raised collections by 68 percent a year.

We've worked too hard for too long toughening enforcement of child support laws to let our progress be accidentally undone. But that could happen if Congress goes ahead with one part of bankruptcy reform legislation now under consideration. I'm willing to work with Congress to pass responsible and fair bankruptcy reform. However, under one leading proposal, when a father declares personal bankruptcy, a mother may have to compete with powerful banks and credit card companies for the money they're owed. That's not the law now, and if that competition starts we all know who will lose the contest -- our children.

Parents have to step up to their responsibilities, and so does Congress. Some changes to consumer bankruptcy laws are in order, but mothers and children should keep their priority under the child support laws. They shouldn't have to stand in line for the support they need.

America's mothers hold a special place in our hearts. In return, we owe them the love and respect they have given us. On Mother's Day, we do so with cards, bouquets, and gifts. But today and every other day, we should also do everything in our power to give our mothers the peace of mind they deeply deserve.

Thanks for listening.

END

Date: 05/12/98 Time: 17:13

With first lady sounding alarm, House panel drafting bankruptcy

WASHINGTON (AP) With Hillary Rodham Clinton warning that it could harm children of single parents, the House Judiciary Committee on Tuesday prepared to draft far-reaching legislation to rewrite the nation's bankruptcy laws.

Rep. Bill McCollum, R-Fla., told the committee the House bill was "pro-family" because it would help people with good credit records by cracking down on debtor abuse and thereby lowering interest rates for credit cards.

But Rep. Jerrold Nadler, D-N.Y., said the measure would result in "ruined lives, lost homes, broken families."

As the legislation moves through the House and Senate, some Democrats, consumer and labor groups are trying to slow the process. They are calling attention to a provision that, they contend, would make thousands of mothers and children owed support take a back seat to credit card companies in collecting debts from fathers who file for bankruptcy protection.

The provision "is a killer part of this bill," Sen. Christopher Dodd, D-Conn., told a news conference.

Dodd and 30 other senators, mostly Democrats, have written Senate Judiciary Committee Chairman Orrin Hatch, R-Utah, expressing concern. Also signing the letter were Republican Sens. James Jeffords of Vermont, Alfonse D'Amato of New York and John Chafee of Rhode Island.

While the bankruptcy laws need to be revised, they wrote, the legislation in its current form would have "a strong and disproportionate effect" on single parents and their children by putting certain types of credit card debt on the same level of priority as child support and alimony payments.

Hatch has not yet commented on the letter. The Senate Judiciary Committee is scheduled to draft its version of the legislation on Thursday.

Mrs. Clinton, in her column last week in the Washington Times newspaper, said she had no quarrel with "responsible" bankruptcy overhaul legislation.

"But I do quarrel with aspects of the bill that would force single parents to compete for their child-support payments with big banks trying to collect credit card debt," she wrote. "The welfare of our children must come first."

President Clinton reprised the idea in his weekly radio address Saturday on a Mother's Day theme, saying some changes to bankruptcy laws are in order, but "mothers and children should keep their priority."

As they grapple with bankruptcy legislation, lawmakers are alarmed by the rising number of debtors in a strong economy. The number of Americans filing personal bankruptcies last year jumped to 1.2 million up more than 300 percent since 1980 intensifying criticism that people take court protection from creditors too lightly.

Of those 1.2 million cases, some 300,000 involved court orders for child and spousal support, according to Dodd.

Under the House and Senate bills, credit card debt incurred 90 days before an individual files for bankruptcy would be considered nondischargeable, meaning it couldn't be erased or written down. Child support and alimony, federal taxes and student loan debts are nondischargeable under current law.

The Democrats contend that would hurt children because nondischargeable debts are considered the most important to pay and usually get paid first, forcing single mothers to compete for payment with credit card companies.

But Rep. George Gekas, R-Pa., chief sponsor of the House measure, disputed that, saying child support would continue to have a higher priority.

"Child support and alimony are priority debts," he said. "If you are keeping score, that is children one, creditors nothing."

A coalition of banking industry groups and credit card companies said recently they would be willing to accept a provision that would explicitly establish the priority of child-support payments.

But Jeffords said Tuesday that would not be sufficient, since big commercial creditors "have so many more weapons and ways they can dun people" for payments.

In another area, Gekas' bill would establish a "needs" test to determine how much debt relief people should receive and how much they are able to repay a provision to which many Democrats and some Republican senators have objected.

The Senate measure proposed by Sens. Charles Grassley, R-Iowa, and Richard Durbin, D-Ill., seeks to prevent people who can afford to pay their debts from escaping them. But it also includes tough new fines for abuse by creditors who try to intimidate or harass consumers into giving up their legal protections.

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First Lady in a Messy Fight On the Eve of Her Campaign

By KATHARINE Q. SEELYE

WASHINGTON — Since the col-
lapse of her health care project in
1994, Hillary Rodham Clinton has
seemed to retreat from the gladiator
pit of high-profile policy issues, de-
voting herself instead to less visible
topics like foster care and adoption.

But for more than a year, Mrs.
Clinton has been engaged behind the
scenes on a legislative issue — con-
sumer bankruptcy — that could
prove politically tricky for other
Democrats and for her own political
ambitions.

The high-powered banking and

credit card industries, concentrated
in New York, are concerned that too
many people with money are filing
for bankruptcy as a financial plan-
ning tool, and the industries are ag-
gressively pushing legislation to
make it harder for consumers to use
bankruptcy to walk away from their
debts.

But Mrs. Clinton has made it clear
that she thinks the legislation, which
the credit industry essentially wrote,
is unfair to women and children, and
she has been just as aggressively
pushing to amend it. The banking
and credit card industries are gener-
ous campaign contributors and could
favor her competitors in a run for the
Senate in New York.

What is more, this is one of the few
causes Mrs. Clinton has taken up
that her own party is divided over.
Democratic support for the legisla-
tion is strong enough that the House
has already passed it by a veto-proof
margin, last month. And the Senate
is poised to do the same when the
matter comes up later this summer.
As one Administration official said,
"For many Democrats, this is a free,
pro-business vote."

Mrs. Clinton was drawn to the is-
sue through her decades-long inter-
est in matters affecting women and
children. Though she supports an
overhaul of the bankruptcy system
and says that those who can repay
their debts should, she says the cred-
it industry should be held equally

Continued on Page 17

hinging the First Tee



When U.S. Learned Of China Spy Charge

Senior White House officials were
informed that China might have stol-
en American nuclear secrets in 1995,
nearly a year earlier than the Clinton
Administration originally disclosed,
officials now say.

Yet the inquiry into China's appar-
ent theft of the secrets languished,
plagued for the next four years by
what many now describe as miscom-
munication, bureaucratic inertia and
outright bungling.

Article, page 4.

187 DAYS TO GO! THE NEW YORK TIMES
Magazine Millennium Countdown sponsored today by
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The New York Times

News
to Print"

SUNDAY, JUNE 27, 1999

First Lady Is In Messy Fight on Eve of Campaign

Continued From Page 1

accountable for making credit too easily available to people who cannot pay their bills.

She also views the legislation as making it harder for women to receive alimony and child support if their former husbands file for bankruptcy, say members of Congress, advisers to Mrs. Clinton and policy experts who have followed the issue. While current law forces debtors to make a priority of claims for alimony and child support, critics of the proposed legislation say it would give equal status to credit card companies and other lenders seeking to recoup money from a limited pool. This could put a single mother in competition with, say, a professional collection agency working for a big bank or credit card company to retrieve money from a bankrupt former husband.

Single women now constitute the largest group of people who file for bankruptcy, making up 39 percent of the nation's annual 1.4 million filings, according to a recent Harvard study. Single men make up 28 percent and married couples 33 percent.

"There is a big stake in this for women and children," said Joan Entmacher, vice president of the National Women's Law Center in Washington. "It was a really critical role that Mrs. Clinton played in having the White House insist that the final bill had to protect those populations."

Some Democrats who support the legislation, however, have played

PRESS AIDE FOR FIRST LADY

Hillary Rodham Clinton announced that she had hired a press secretary for her Senate exploratory committee. Page 24.

cy law from a Harvard law professor, Elizabeth Warren, who has strongly opposed the legislation. Ms. Warren said she met with Mrs. Clinton alone for more than half an hour, with Mrs. Clinton "cross-examining" her about how bankruptcy works and the effects of the bill.

Mrs. Clinton directed her staff to delve into the details and held numerous policy discussions. She devoted two of her weekly newspaper columns to the issue. She wrote dozens of personal notes to lawmakers last year as the bills made their tortuous way through the Congressional process. And she, along with Senator Edward M. Kennedy, Democrat of Massachusetts, played what the bill's opponents say was a decisive role in helping to kill the legislation last year.

Representative Jerrold Nadler, a New York Democrat and strong critic of the legislation, said that he called the White House last October to alert Mrs. Clinton that Senator Trent Lott, the Republican leader, was trying to slip the bankruptcy legislation into the final omnibus spending bill, a move that would have made it virtually impossible for President Clinton to veto.

"We heard that Lott asked the White House for minimally acceptable language, and we heard that some in the White House were trying to work out such language," Mr. Nadler said. "I called Mrs. Clinton to say, 'Stick to your guns.' That's where she was instrumental. She weighed in, and suddenly we were hearing a changed tune." The bill

the final Senate bill looks like.

Administration officials say that so far the Senate has not adequately addressed the concerns of Mrs. Clinton, who wants both the priority for women and children, and greater accountability by creditors, but they are circumspect about how far the White House will go in pressing for changes, especially if many Democratic senators are satisfied.

"She's very practical," said an official close to Mrs. Clinton. "She wants to improve the bill. She doesn't want to be obstructionist. She thinks, 'What are our major issues, what is our strategy and where are we at the end of the day?'"

Another complicating factor is this: some of the Democrats sympathetic to the Republican proposals that Mrs. Clinton opposes are also major fund-raisers for their party, and the banking and credit interests are prime sources of big campaign contributions.

In the last election cycle, the credit industry, including credit card companies, banks and retailers, gave more than \$4.5 million in campaign contributions, according to the Center for Responsive Politics.

"It was a combination of aggres-

sive industry lobbying, by retailers as well as creditors, and they spent a great deal of money," said Stephen Brobeck, executive director of the Consumer Federation of America. "At the same time, people going into bankruptcy are not at all organized. You've got some women's groups and, increasingly, labor, but it's not their No. 1 priority."

He added: "Some Democrats in the House thought this was a free vote because they didn't think the Senate would approve such a draconian piece of legislation or it would be vetoed by the Administration."

William P. Binzel, a spokesman for Mastercard International, said that Mrs. Clinton had worked hard and made her opposition well known but that she had not been able to overcome the industry's basic argument for the legislation.

"It's not a hard sell to say there's a fundamental flaw in the current law when debtors are allowed to walk away from their debts when they have the ability to pay," Mr. Binzel said. "It's fair to say there is strong bipartisan support for bankruptcy reform."



Hillary Rodham Clinton, who has been concerned about the ir-



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Some Democrats who support the legislation, however, have played

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erail the legislation.

Mrs. Clinton immersed herself in
the topic last year, before she consid-
ered running for the seat of Senator
Daniel Patrick Moynihan, even be-
fore Senator Moynihan announced
that he was retiring. (She is expected
to begin her campaign shortly after
July 4 with a 10-day announcement
tour across upstate New York.) Her
involvement was remarkable for any
first lady but particularly for one
who had been so seared by the public
when she ventured into the policy-
making arena on health care.

"She has essentially been function-
ing as a senior adviser to the Presi-
dent," said Carl Sferrazza Anthony,
author of several books on first la-
dies. He said such a role could be
valuable during her Senate campaign
because her involvement in various
issues will bolster her credibility as
someone who cares about public poli-
tics and legislation, and yet she needs
to be clear of implications that she
has been operating as an unelected
President.

In the spring of 1998, Mrs. Clinton
sought a private tutorial in bankrupt-

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Nadler said. "I called Mrs. Clinton to
say, 'Stick to your guns.' That's
where she was instrumental. She
weighed in, and suddenly we were
hearing a changed tune." The bill
died.

This year, as the legislation re-
emerged, Mrs. Clinton has kept her
vigil. She spoke out last month at the
White House on what she called abu-
sive and predatory practices by
credit card companies, which make
four billion unsolicited offers of cred-
it cards every year that critics say
are aimed at those least likely to pay
their bills on time — elderly women,
unemployed college students, people
without health insurance and those
already in debt. And she received a
briefing on the bankruptcy bill be-
fore she left earlier this month with
President Clinton for Europe.

"She has been the principal at the
White House who cared most about
the fate of the details of the bill," said
one Administration official.

Mrs. Clinton's involvement in the
bankruptcy issue has been unusual in
part because her own party is split
over what to do about it. The House
passed its version with a veto-proof
majority even as advisers to the
President recommended he veto it.

The Senate version is also expect-
ed to win some support from Demo-
crats, who are negotiating with Re-
publicans over aspects such as
means testing and requirements for
credit card companies to disclose to
consumers how much they will owe if
they do not pay their bills in full. The
White House is waiting to see what

U.S. Officials Monitor Wolves After Cattle Attack in Arizona

PHOENIX, June 26 (AP) — Ari-
zonian ranchers had warned that
wolves released into the wild would
kill livestock, and now one pack

Federal biologists say they will

The pups, the number of which
have yet to be determined, are the
second litter born in the wild. The
surviving pup from last year's litter
disappeared shortly after its mother
was shot illegally in August, the

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LETTERS TO THE EDITOR

Bankruptcy Laws Go Easy on the Rich

David Broder's recap of the role credit card companies played in pushing bankruptcy "reforms" through the House ["Morally Bankrupt Creditors," op-ed, May 16] may have left readers with the erroneous impression that the House-passed bill would rein in wealthy debtors who "put all their assets into lavish homes in states with high homestead exemptions and laugh when their creditors try to collect."

It does not. The House-passed bill would subject poor and middle-income debtors to elaborate new filing restrictions while doing nothing to stop wealthy debtors from buying expensive homes in one of the handful of states—such as Texas or Florida—that have an unlimited homestead exemption, declaring bankruptcy and continuing to enjoy a life of luxury while their creditors get little or nothing.

These are people like the owner of the failed Ohio savings and loan who paid off only a fraction of \$300 million in bankruptcy claims while keeping his multimillion-dollar Florida ranch. Or the Miami physician with no malpractice insurance, who was named in four separate mal-

practice actions, filed for bankruptcy protection and kept a \$500,000 home with a 100-foot swimming pool. Or the movie actor Burt Reynolds, who was more than \$10 million in debt but kept his \$2.5 million home while his creditors received 20 cents on the dollar.

While hardly a frequent occurrence, such abuses bring the fairness and rationality of the bankruptcy system into disrepute. That is why the National Bankruptcy Review Commission urged Congress to place a uniform national cap on the amount of equity that could be claimed under the homestead exemption. And that is why I offered an amendment to the subcommittee to cap the exemption at \$250,000. My amendment was overwhelmingly approved.

But when the full committee took up the bill, a further amendment was added to allow individual states to opt out—in effect, returning us to current law. Supporters of the opt-out provision argued that a federal cap on the homestead exemption would violate "states' rights." Yet by setting the cap at \$250,000, we had already taken care to defer to state legislatures, leaving in place the

(lower) thresholds in effect in every one of the 45 states that have established caps of their own.

To say that Congress should set no cap in the name of "states' rights" is to say we must stand by while a handful of states undermine the uniform enforcement of the federal statutory scheme embodied in the Bankruptcy Code. That would be like legislating a federal income tax that leaves it to the state legislatures to determine what will count as a business deduction.

By refusing to fix this problem, the authors of the bill revealed the double standards by which they have gone about these "reforms." They ask us to perpetuate the current inequities in the treatment of debtors who live in different states and to create new inequities in the treatment of debtors of differing financial means.

Efforts to cap the homestead exemption will be renewed when the Senate takes up its version of the bankruptcy bill, which could happen as early as this week. Here's hoping they have more success.

WILLIAM D. DELAHUNT
U.S. Representative (D-Mass.)
Washington



CRAIG HERNOON—THE WASHINGTON POST

Answering the Call

The recent deaths of two District firefighters bring home the sad but true fact that firefighting remains a hazardous and challenging career, one that most of us take for granted ["Firefighter Killed in Blaze in D.C.," front page, May 31].

It is a sad irony that as the nation's capital honored its war dead on Memorial Day weekend, firefighters were putting their lives on the line. On this weekend for remembrance of heroes past, two brave D.C. firefighters lost their lives in service to their community. These heroes should not be forgotten either.

Each October, the nation honors the firefighters who sacrificed their lives in the line of duty during the previous year. These brave heroes, like firefighters Anthony Phillips and Louis Matthews, leave family and friends behind. In 1998, we honored another District firefighter, Sgt. John Carter.

Just as our war dead and veterans deserve every honor and remembrance we can bestow, so do the sacrifices made by the brave men and women of the fire service. Every day of the year and in every community across America they answer our calls for help when emergency strikes. Firefighters risk their lives because they care about us and our communities.

STEVE ROBINSON
Executive Director
National Fallen Firefighters Foundation
Emmitsburg, Md.

The Washington Post

MONDAY, JUNE 7, 1999

Milosevic Won

Who won the war over Kosovo? Slobodan Milosevic, the war criminal. How is that? The agreement:

■ Will allow Kosovo to remain part of the sovereign state of Serbia.

■ Will bring an international, rather than a strictly NATO, force of peacekeepers into Kosovo.

■ Will provide for United Nations Security Council mandate and supervision over that force, meaning that countries sympathetic to Serbia—Russia and China—can use their veto powers to protect Serbian interests in the province of Kosovo.

None of these provisions was offered at Rambouillet, thus causing Slobodan Milosevic to reject that agreement. Instead what he was offered by our misguided diplomacy was the eventual and certain loss of a province of Serbia to independence.

In addition, Slobodan Milosevic's brutal ethnic cleansing of the Alba-

nian Kosovars and widespread destruction of the province likely will limit the numbers of ethnic Albanians who will choose to return home, thus creating a demographic balance more favorable to the Serbs.

To Slobodan Milosevic, was the cost of the destruction of Serbia and Kosovo wrecked by NATO worth the benefit of these gains? Who knows? He has paid a very dear price for what he has gained. But what about our side? If our diplomacy had been as skillful as we think it was, we could have obtained this deal from Slobodan Milosevic at Rambouillet and avoided the costs we have paid and the misery subsequently inflicted on Serbs and Kosovars alike. Those who managed our diplomacy at Rambouillet should have the decency to resign.

ROBERT V. KEELEY
Washington

HUD Overboard

The HUD bureaucracy is in serious need of restraint. Today its representatives are inspecting the shelves in my efficiency apartment for lead-based paint. I have resided here for 32 years without lead problems; now the owner must repaint or replace the shelves over the clothes rods and in the linen closet. A couple of years ago it was the balcony railings (which led to a summer "in hell"), then a couple of years later the interior doors and now the shelves and balcony lights.

This is not a mere inconvenience—for me at age 76 it is a major heart-palpating distress, aggravating stress and strain and acute physical discomfort. All this for a purported hazard that truly does not exist for this tenant. How intrusive must we allow government to get?

MARYHELEN SIMMONS
Washington

Risky Business on Capitol Hill

"A Capitol Place to Be" [news story, April 20] shows a serious lack of concern for safety from a man who is responsible for the well-being of some 2,000 employees and who is charged with the maintenance and upkeep of the Capitol complex.

I disagree with Architect of the Capitol Alan Hantman's characterization of fire-safety problems on Capitol Hill as "journalistic hyperbole." How is it journalistic hyperbole when the House inspector general determines that the U.S. Capitol and five House office buildings are firetraps that leave visitors, members of Congress and employees with an "undue risk of loss of life and property"?

Letters must be exclusive to The Post, must be signed and must include the writer's home address and day and evening telephone numbers. Because of space limitations, published letters are subject to abridgment. Although we are unable to acknowledge letters we cannot publish, we value the views of those who send us their comments. Letters should be addressed to Letters to the Editor and may be hand-delivered, submitted via U.S. mail or via The Post's web site, <http://www.washingtonpost.com>.

Recently an Office of Compliance investigation revealed 14 Occupational Safety and Health Administration violations by the architect of the Capitol at the Capitol power plant. Employees are exposed to coal dust, asbestos, freon and other chemicals. Prior investigations and union research revealed that:

■ Laborers who were not wearing proper protective gear were forced to crawl through garbage to retrieve documents.

■ Custodial workers were required to use vacuum cleaners with faulty, exposed wires.

■ Staffing levels, which have fallen by 40 percent, increase the likelihood of injuries and illnesses due to increased workloads.

■ Absence of safety instructions signs has resulted in employees being exposed to blood or other potentially infectious materials.

The American Federation of State, County and Municipal Employees—which represents more than 600 Capitol Hill employees—is concerned for the safety of every employee and visitor who enters the Capitol complex. For that reason, I have written Rep. William M. Thomas, chairman of the Committee on House Administration, requesting a hearing on these health and safety and staffing concerns.

The Office of Compliance and the inspector general have come to the same conclusions concerning safety

violations by the architect of the Capitol. These violations pose a serious threat to those who work in or visit the Capitol complex. The time is long overdue to provide a safe environment at one of the world's premier democratic institutions.

GERALD W. MCENTEE
International President
American Federation of State, County
and Municipal Employees
Washington

The Washington Post

EUGENE MEYER, 1875-1959
PHILIP L. GRAHAM, 1915-1963

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The Washington Post

MONDAY, JUNE 7, 1999

LETTERS TO THE EDITOR

Child Support Will Come First

I write in regard to David Broder's May 16 op-ed column, "Morally Bankrupt Creditors." Mr. Broder, referring to the position of Rep. Henry Hyde (R-Ill.) and Hillary Rodham Clinton, wrote that the bankruptcy bill that passed the house on May 5 "might give the issuers of plastic as much claim to a bankrupt worker's earnings as his ex-wife or their children." Mr. Broder used this as an example of why the bill deserved more scrutiny.

I have been a pioneer on child-support reforms as far back as 1983 and served on the U.S. Commission for Inter-State Child Support Enforcement. I closely examined the issue of child-support payments before I decided to support the bill.

The facts are that this legislation strengthens protection for child support. It moves child-support payments from being seventh in line, behind such "priorities" as attorney's fees, to No. 1 when determining which debts are to be paid first in a bankruptcy case. The bill makes confirmation and discharge of Chapter 13 plans conditional upon the debtor's complete payment of child support. It provides

that the automatic stay of repayments to creditors does not apply to a state child-support collection agency that is trying to recover child-support payments.

The bill will require the trustee to notify a claimant parent of the bankruptcy proceeding to ensure that he or she is not left out when a debtor parent enters into bankruptcy. In addition, the bill contains my amendment requiring the General Accounting Office to study the feasibility of having Bankruptcy Court trustees report the names of individuals filing bankruptcy to the Office of Child Support Enforcement. The study is intended to lead to even more effective legislation to ensure further that debtor parents cannot use bankruptcy to escape their child-support obligations.

As with any piece of major legislation, we must closely analyze the effect of new laws. But let it be known that I will stay vigilant to ensure that child support enforcement will remain a top priority.

MARGE ROUKEMA
U.S. Representative (R-N.J.)
Washington

Abe Pollin's Loyalty

The May 14 editorial "After Abe Pollin" accurately described Mr. Pollin's loyalty and commitments to the Washington area but failed to mention that he has failed time and time again to give Washington sports fans something to cheer about.

Washington sports fans should remember that it was Mr. Pollin who brought pro basketball and hockey to this area. However, they don't have to be reminded that the Capitals and the Wizards are regarded as second-rate organizations. Despite Mr. Pollin's sincere efforts to bring a winner to Washington, the Capitals never have won the Stanley Cup and the Bullets/Wizards haven't won a playoff game in the '90s.

The sugar-coated editorial suggested Washington sports fans should be "optimistic" about new

Washington Capitals owner Ted Leonsis because "Abe Pollin thinks he's the right guy."

Mr. Leonsis may be the right guy, but based upon Mr. Pollin's personnel judgments and his overall lack of success as an owner, Washington sports fans should be extremely skeptical of Mr. Pollin's choice for his successor.

BOB CUSACK
Arlington

I found it ironic that one of Abe Pollin's main goals in selling his Washington Capitals was to find a local buyer. According to The Post's story, Mr. Pollin didn't want an out-of-towner running his local teams [front page, May 16].

I wish the former owners of my hometown Baltimore Bullets had the same stated goal. Mr. Pollin doesn't want Washington to experience what he did to Baltimore—have an out-of-towner steal away his teams. He finally figured it out—even if it is a quarter-century too late.

ED McDONALD
Alexandria

Don't 'Develop' Garrett Park

As a resident of nearby Garrett Park, it is hard to stomach the glowing report of the 2,000-seat concert hall plan looming for the Strathmore Hall Arts Center ["Strathmore Concert Hall Team Chosen," Style, May 19].

Here's an SOS to the Wilderness Society and other environmental groups: How many more 11-acre tracts of land with rolling hills and gorgeous trees are left in the "close-in" suburbs? And here's an SOS for our local elected officials touting this project: There's already a concert hall there. The crickets play treble, the frogs play bass, the wind is the string ensemble and the laughter of children running and playing in open green space are the woodwinds. Leave it alone.

BARBARA FLANDERS
Garrett Park

A Misrepresented Study

In her May 25 letter, Lisa Ryu, a staff economist at the National Association of Federal Credit Unions, grossly misrepresented our study of means-testing for consumer bankruptcy. We found that only 3.6 percent, not 7 percent, of our sample of Chapter 7 debtors would be shifted into Chapter 13 under the proposed bankruptcy bill. If that rate held for the nation as a whole, we estimated unsecured creditors would collect less than \$1 billion from affected debtors.

These numbers are far below the estimates in studies sponsored by Visa, which purport to show that 10 percent to 155 percent of Chapter 7 debtors could repay \$3 billion to \$4 billion in unsecured debts. Visa, of course, is a principal sponsor and financial beneficiary of pending bankruptcy bills, as are the credit unions Ms. Ryu represents.

Our study, in contrast, was funded by the widely respected, nonpartisan American Bankruptcy Institute and Creighton University. To dispel Ms. Ryu's misrepresentations, we present the facts:

First, we have released all our data to the General Accounting Office so that its experts could test and verify our results. In his testimony before the House Judiciary Committee on March 17, the GAO's Richard Stana stated that Visa refused to allow a GAO audit of its data.

Second, contrary to Ms. Ryu's claims, we did not "double count" transportation expenses. Although the GAO has not yet released its final report, it made no such statement on March 17, when it made its only official assessment to date concerning our study.

Third, we have not revised our findings to 7 percent as the proportion of Chapter 7 debtors who would be shifted by the bill into Chapter 13. Our results remain at 3.6 percent.

Fourth, the Executive Office for United States Trustees in January published that office's independent study of the repayment capacity of Chapter 7 debtors. Its study, like our own, concludes that affected debtors could repay less than \$1 billion in unsecured debt. Thus, the only other study not funded by the credit card industry corroborates our findings on the bottom line.

MARIANNE B. CULHANE
MICHAELA M. WHITE
Omaha

The writers are professors at the Creighton University School of Law.

The Struggles Of Immigrant Moms

The Organization of Chinese Americans, a national Asian Pacific American civil rights organization, would like to commend Philip Pan's refreshing article about immigrant mothers in the greater Washington area [Metro, May 9]. The article, "The Apron Strings of Sacrifice," which ran on Mother's Day, reveals the struggles that these women have been through and their determination to survive in a country that seems bent upon removing them. What a wonderful article to honor all mothers, regardless of their immigration status.

Immigrants to this country increasingly have been on the receiving end of immigrant-bashing sentiments. The article showed how immigrants are trying to assimilate and adapt to the United States and its customs. These women must leave their loved ones behind with only hope to guide them—hope that their children will grow up in the land of opportunity and have a better future than that envisioned in their homelands.

GEORGE M. ONG
National President
Organization of Chinese Americans Inc.
Washington

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The Washington Post
THURSDAY, JUNE 3, 1999

Euro's Fall Bruising Dreams of Creators

By ANNE SWARDSON
Washington Post Foreign Service

PARIS, June 2—The value of the euro, the European single currency hailed at its birth as the proudest achievement of European unity, hit a record low today in its uninterrupted slide downhill.

The "single currency" of 11 Western European nations is now at near-parity with the dollar. It began life five months ago worth \$1.17. It fell today in New York to \$1.0361, after officials squelched rumors that the European Central Bank would intervene to bolster the euro.

"I think the markets have sensed this is a project that has got profound flaws in it," said David Lascelles, co-director of the Centre for Financial Innovation in London. "The markets have now smelled blood."

Economically, a falling euro is not a bad thing for Europe. A weak euro attracts foreign tourists because hotels and restaurant meals cost less in dollars when charged

EURO, From E1

to most dollar-based credit cards. (The euro is not yet available in cash—that will happen in 2002. It is at present an accounting unit whose rate is fixed to member countries' currencies.) And a weak euro makes European exports cheaper elsewhere.

There are some economic dangers inherent in a weak currency though, such as higher inflation. But prices are rising only very slowly here and there is little sign anything will push them up faster.

Politically, however, the fall of the euro is a deep embarrassment to its founders. One reason the 11 participating countries—Austria, Belgium, Finland, France, Germany, Ireland, Italy, Luxembourg, Netherlands, Portugal and Spain—chose to combine their moneys into one was to create a currency to rival the international power of the U.S. dollar. The hope was that the euro would someday rival the dollar as a reserve currency, in which countries and companies around the world hold their financial assets because they are sure of preserving their value. The fall of the euro makes a mockery of that idea, for the moment at least.

The European Central Bank, which governs monetary policy for the euro countries, did not take any action to support the currency, saying that its decline was the result of a strong U.S. economy relative to the weaker combined economies of the euro countries.

In fact, ECB officials and those from the governments of member countries have been trying to talk up the euro for weeks. Today, ECB President Willem "Wim" Duisenberg said that the euro "is a currency firmly based on internal price stability and therefore has a clear potential for a stronger external value."

There is no "cause for concern" added Klaus Gretschmann, chief international economic adviser to German Chancellor Gerhard Schroeder.

Many analysts, on the other hand, are forecasting that the euro soon will equal the dollar. "We are getting closer to the crisis zone," said Ulrich Schroeder, senior economist with Deutsche Bank Group in Frankfurt.

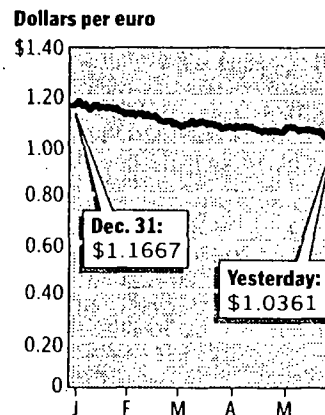
"I think there is certainly an image problem," said Herve Goulletquer, chief economist for the Credit Lyonnais bank in Paris. "The idea is you are supposed to have confidence in a currency. At its base should be strong economies and strong institutions. Today we don't have either one."

In essence, he said, Europe is missing what nearly every other money on earth has: a government. Without central institutions, other than a central bank, Europe will never be in a position to fully challenge the United States economically, he said.

"There's going to be a slow grind down; the euro could go below \$1," said Duncan Webster, head of the global strategy group

Euro on the Decline

The euro is at its lowest point, down 11 percent since its inception.



SOURCE: Bloomberg News

THE WASHINGTON POST

for HypoVereinsbank in Munich. While the euro has been falling virtually since it came into existence at the beginning of this year, its pace of decline has accelerated lately. The recent fall was touched off last Tuesday when Italy said it would not be able to cut its budget deficit as much as expected.

Because the euro links its members' economies closely together, Italian fiscal profligacy has ramifications for interest rates and inflation in its 10 partners as well.

Currency investors make their investment decisions in part on whether the currency is well managed; countries with big budget deficits often have weak currencies.

So the euro began to slide as soon as other European countries indicated that the lack of Italian budget rigor was acceptable.

At the same time, the war in Kosovo has also pushed down the value of the euro. Investors, whose currency trading decisions determine the exchange rate, fear that Europe's war expenditures will raise their budget deficits, interfere with commerce and create a generally less stable environment.

Most important in the euro's fall, however, has been the continuing reality that the economy of the United States has grown faster and for longer than have the combined economies of the euro nations. While some participants, such as Ireland and Spain, are showing healthy growth, others, especially Germany and Italy, are extremely weak.

Even before the creation of the euro, the currencies of the 11 countries tended to move in the same direction against the dollar, and the euro's current rate is not unusually low against the dollar by historical standards. Duisenberg noted in his news conference in Frankfurt today that the currencies of the euro nations were this weak in the spring of 1998 and in the summer of 1997.

file bankruptcy
press

< FRONT PAGE WORLD UTAH SPORTS OPINION BUSINESS TRAVEL CITY LIGHTS UT. BOUND >

Sunday, July 18, 1999

Letter From The Editor

BY JAMES SHELEDY

Throughout recorded history, the inability to retire one's debts has carried social, theological, economic and criminal consequences.

The Romans allowed creditors to hold up debtors to public ridicule for a few days before they were executed and their bodies divided into pieces to satisfy the debt. That undoubtedly was the severest reaction to "the check's in the mail."

The Bible pushes forgiveness of temporal debts within seven years and most moral mischief upon petition. Congress has passed a half-dozen bankruptcy acts since this nation was founded, normally following a financial panic.

Religious ramifications took shape in the 16th century with the teachings of Protestant Reformationists John Calvin and Ulrich Zwingli. One's material success indicated one's eternal status.

Little wonder, then, that failure to meet financial obligations put one under a social cloud, let alone a stint in debtor's prison. Thankfully, no major religion today preaches such theological alchemy.

Filing for bankruptcy -- in reality, legal protection from creditors in order to begin afresh -- became commonplace in the United States during the Great Depression. But those wholesale bankruptcies shaped the emotional psyches of an entire generation.

Filings ballooned again in the 1980s as lending institutions, credit cards and "easy payment plans" broadened the reach of credit beyond the middle class. Consumer credit became easy, and many didn't know how to manage debt. Currently, more people annually declare bankruptcy than graduate from college.

Is that because of a corresponding phenomenon wherein bankruptcy does not carry the social stigma it once did? Notes the humorless Federal Reserve Board Chairman Alan Greenspan: "Personal bankruptcies are soaring because Americans have lost their sense of shame."

Perhaps not. A Salt Lake Tribune team researching the issue found it a challenge to get Utahns to publicly discuss their financial failings. While most individuals who go belly-up may not view it as the end of the world, there remains embarrassment.

Salt Lake City bankruptcy attorney Ralph Mabey, who testified on the topic before Congress earlier this year, maintains it is only the stigma of consumer debt, not bankruptcy, that is dead.

Credit-card companies. in seeking tougher bankruptcy standards.

Email
This
Article

warn bankruptcy is becoming the first stop, rather than the last resort, in resolving debt loads. And that is costing each household a hidden tax of \$400 a year.

Changes are in the offing. There is support in Congress to force those who are able to pay off their debts rather than taking the bankruptcy route. But Harvard law professor Elizabeth Warren's most recent research shows that most Americans file for bankruptcy out of genuine financial crisis.

We are not exempt from this plague. In a state known for hard work, thrift and self-reliance, Utah ranks among the nation's leaders in the number of bankruptcy filings per household. One of the reasons proffered is that the state's large families put undue burdens on household finances. Unfortunately, there has been no hard data on personal bankruptcy demographics to substantiate that or other theories forwarded for the high number of Chapter 7 and Chapter 13 filings here.

We have changed that.

For the past half year, The Tribune, under the coordination of Business Editor Lisa Carricaburu, has been compiling its own bankruptcy database on a software spreadsheet, the largest computer-assisted reporting project we have ever undertaken.

Newsroom Assistant Julie DeHerrera pulled 2,772 filings, inputting the marital status, number of dependents, monthly income and expenses, total debt, property and number of credit cards from roughly one in every five cases filed in Utah in 1998.

Several reporters -- Sheila R. McCann, Steven Oberbeck, Lesley Mitchell and Glen Warchol -- contributed to this project, but the real hero was DeHerrera. On many days, bankruptcy court personnel would greet her when they opened their doors in the morning and said good-bye to her as they locked up.

DeHerrera's data was given to Dennis Eggett, a statistics professor who heads the Center for Statistical Consultation and Collaborative Research at Brigham Young University, to ascertain how well her 2,772 random cases represented all 13,536 Utahns who filed last year. And Eggett determined we were accurate to within a plus or minus 2.5 percent.

So what did they find? Many things, not the least of which is large families are not a primary cause of bankruptcy. Half of those Utahns who filed for bankruptcy last year have fewer than two children, half have more.

The Tribune team offers the most comprehensive look ever taken by Utah's courts, news media or Academe at the demographics of personal bankruptcies.

We have divided the presentation into digestible parts: a front-page opening that examines our demographic findings, the reasons for bankruptcies in Utah, and personal stories, and a second part, beginning on the front of the Business section, Page E-1, which addresses reform proposals and ways to avoid bankruptcy.

Much of what you read will be a first.

Editor



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< FRONT PAGE WORLD UTAH SPORTS OPINION BUSINESS TRAVEL CITY LIGHTS UT. BOUND >

Sunday, July 18, 1999

Bankruptcies Reflect Nation's Character

BY SHEILA R. McCANN
THE SALT LAKE TRIBUNE



Feeling overwhelmed by her \$18,000 debt and relentless telephone calls from creditors, a 44-year-old eastern Utah woman filed for bankruptcy last September. She sold her home and moved her two children to Salt Lake City, where she found an apartment and a secretarial job.

The single mother is not proud or untroubled about declaring bankruptcy. She has kept it secret from everyone she knows, claiming she moved to Salt Lake City to be closer to family.

"Nobody knows about this," she said. "My father doesn't know, my kids don't know, nobody knew I did this. That's how ashamed I have felt."

BANKRUPTCY CLICK HERE EXTRA:

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■ [Letter From The
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■ [Consumer Counselors
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the Hole](#)

■ [Whose Fault Is It
When Debts Pile Up?](#)

■ [More Homeowners](#)

Waiting in her lawyer's office to start the process, she said to herself: "I'm a no-good scumball. I'm basically ripping these [creditors] off. I'm worthless now."

Politicians have been placing at least some of the blame for America's spiraling bankruptcy rate at the feet of reckless consumers. This spring, House Majority Leader Dick Arme, R-Texas, said bankruptcy reform is a top priority, implying Americans had become nonchalant about shedding their debts.

"It's about the character of a nation," Arme said. "I can remember when bankruptcy was an embarrassment to a family or an individual. Because it was an embarrassment, people were more prudent."

While researchers say most Americans are driven into bankruptcy by genuine financial crises, politicians have been debating the ethics of bankruptcy and the value of allowing debtors a fresh start since the country's earliest days.

Throughout the 1800s, American politicians questioned whether a national measure to wipe out past debts would be

**Falling Prey to Bigger
Loans They Can't
Repay**

**Few People Learn to
Manage Money**

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unconstitutional and immoral.

The first three national bankruptcy laws -- passed in 1800, 1841 and 1867 -- targeted specific economic depressions. Each was repealed within a few years.

Bankruptcy advocates have made two counter-arguments during political debates, said Bernard R. Trujillo, a University of

Wisconsin law professor.

"One is a very basic argument regarding human dignity -- to hold someone to a contract when it would demolish their life is inappropriate as a matter of government," Trujillo said.

The second "is a brass-tacks economic argument: It's good for the economy to break some contracts," he added. "If you allow creditors to chase debtors to the last dime, you end up depriving debtors of incentive to be productive."

By the 1820s, American states were beginning to abolish laws that called for debtors to be imprisoned, except in cases of fraud. The country's second bankruptcy law displayed a striking change in philosophy: anyone of any class -- not just select categories of business owners -- could voluntarily declare bankruptcy, without the consent of creditors.

The 1841 law was passed in the wake of the financial panic of 1837 and a resulting depression. One panic victim: the Kirtland Safety Society, the Ohio firm formed as the bank for The Church of Jesus Christ of Latter-day Saints by Joseph Smith and church leaders.

The society's failure, plus the costs of the Mormons' flight from Missouri and debt from the purchase of land in Nauvoo, Ill., left Smith and the church on fragile financial ground.

In 1840, Mormon businessmen signed a promissory note to buy a steamboat from the U.S. government, with Smith as a guarantor. When the boat ran aground, the men defaulted, and the U.S. Attorney won a judgment of more than \$5,000 against Smith and others in April 1842.

That month, Joseph Smith filed for bankruptcy under the new 1841 law, which had become effective in February. In History of the Church, Smith said he was forced into bankruptcy by the persecution of Mormons, and left the morality of the law to others to decide.

"The justice or injustice of such a principle in law, I leave for them who made it, the United States," Smith said. "Suffice it to say, the law was as good for the Saints as it was for the gentiles, and whether I would or not, I was forced into the measure. . . ."

The fourth national bankruptcy law, which took effect in 1898, was the first law that applied to Utah, newly admitted as a state in 1896. It has stood as the template for bankruptcy law, with major amendments in 1938, 1978 and 1984.

University of Utah graduate student Kenneth Lougee recently examined early Utah bankruptcy filings, focusing on Ogden filings between 1926 and 1927. He found most debtors blamed illness for their money woes.

"With no health insurance, nor other source of income, sickness of a breadwinner was fatal to people living near the financial margin of society," Lougee wrote.

Workers also filed to protect their jobs after a creditor placed a garnishment on their wages. A second garnishment would mean dismissal, Lougee explained.

"The proof of claims demonstrate no sense of shame," Lougee said. "Rather, they demonstrate a strong determination to preserve family through labor."

In 1930, 730 Utahns filed for bankruptcy, a number that would not be matched again until the 1960s. Between 1943 and 1948, fewer than 100 Utahns were filing each year.

But by the 1960s, the rise in consumer credit was being accompanied by a rise in personal bankruptcies. In 1963, the number of Utahns filing for bankruptcy topped 1,000 for the first time.

In 1964, University of Utah graduate student Grant L. Misbach pulled the credit reports of 95 Utahns who had declared bankruptcy in late 1956 -- which had given them seven years to re-establish their credit. All did.

"The typical viewpoint [of businesses] is that since these persons now have little or no debt and cannot file bankruptcy again for six years, they are now good credit risks," Misbach wrote. "If they do not extend credit to them, their competitors will."

Ninety percent of the 1956 bankrupts were again headed for financial trouble, Misbach found. Seven of the 95 had re-filed for bankruptcy.

"From these results it is clear that nothing was learned by going through bankruptcy," Misbach concluded.

U.S. District Judge Bruce Jenkins, bankruptcy trustee between 1965 and 1978, recalls filers perplexed by their predicament.

"It was always amazing how completely financially deficient they were," Jenkins said. "I was an activist when it came to putting questions to people: Do you ever look at what you have in the bank? Did you ever draw up a little balance sheet? They'd say, 'What's a balance sheet?'"

National bankruptcy rates began climbing in the mid-1980s. Utah followed national trends, dipping in 1993 and 1994, then climbing to 1998's peak. Last year, 1.4 million Americans filed for bankruptcy, with nearly 14,000 in Utah.

Harvard law professor Elizabeth Warren scoffs at the idea most Americans have become cavalier about filing. Warren has extensively researched the causes of bankruptcy. "People would rather talk about their sex lives," she said, "than say they are a failure in the great American financial game."

The Salt Lake City mother who filed bankruptcy last year traces her financial problems to the purchase of a new home in eastern Utah in 1995. She furnished it on credit, then lost her seasonal outdoor job and amassed additional debts. Now, she throws away credit card offers and tells her children to save for the clothes or treats they want.

"If I can't pay for it with cash, or put it on layaway," she said. "I'll



Sunday, July 18, 1999

Bankruptcy Explodes In the Shadows of Utah Economic Boom

BY STEVEN OBERBECK
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TRIBUNE

It is one thing to chat about Utah's booming economy and quite another to talk of its flip side.

For most of the decade, Utah's economy consistently has ranked among the best performing of the 50 states.

Running counter to that growth, however, has been an explosion in the number of Utahns with financial problems that lead to foreclosures, repossessions and the ultimate ordeal -- bankruptcy.

A record 13,536 Utah households last year ended up in U.S.

Bankruptcy Court, ranking Utah fourth nationwide in the number of households filing for bankruptcy -- one of every 46.

Clearly, a prospering economy provides little protection from widespread personal financial problems.

"It really does not matter if someone's neighbors are doing well -- if most people in the community are doing well," said Sam Gerdano, executive director of the American Bankruptcy Institute.

The increasing number of bankruptcies can be viewed as one consequence of an economy that relies heavily on consumer spending.

BANKRUPTCY CLICK
HERE EXTRA:



Michelle and Christopher Johnson, with children Chelsea and D.J., filed for bankruptcy after a preparer erred on tax returns. (Leah Hogsten/The Salt Lake Tribune)



Consumer spending makes up two-thirds of the domestic economy; the country needs people to spend to ensure prosperity. And by

■ **Bankruptcy Explodes
In the Shadows of Utah
Economic Boom**

people to spend to ensure prosperity. And by all indications, Utahns and other Americans are doing that with a vengeance.

■ **Large Families Don't
Influence Bankruptcy
Stats, Database Shows**

But talk about consumer spending, debt and insolvency only touches on what really is happening when people file for bankruptcy, Gerdano said.

■ **Professor Names 3
Ways To Reduce
Bankruptcies**

"This is a household-by-household problem," he said. "Financial problems happen to people month to month. Their bills come due month to month. If people do not have the cash flow to meet their obligations, then many are going to have to consider bankruptcy at some point."

■ **Bankruptcies Reflect
Nation's Character**

Every year, thousands of Utahns reveal the details of their personal financial lives when they file for bankruptcy.

■ **Letter From The
Editor**

■ **Consumer Counselors
Help Dig Utahns Out of
the Hole**

A Salt Lake Tribune study of personal-bankruptcy filings in Utah last year found that they are mostly working-class people -- singles bringing home \$15,324 a year and couples with take-home pay of around \$26,220 and children to support.

■ **Whose Fault Is It
When Debts Pile Up?**

Those with homes (35 percent of all filers) have monthly mortgage payments of about \$825. They drive older automobiles.

■ **More Homeowners
Falling Prey to Bigger
Loans They Can't
Repay**

In short, they are typical Utahns living paycheck to paycheck.

■ **Few People Learn to
Manage Money**

So why do so many ordinary, hard-working Utahns -- consumers who at one time probably believed they were doing OK financially -- suddenly find themselves facing

■ **Credit Counseling
Information**

a judge asking permission to walk away, delay or reduce their debt payments?

Filings are frequently prompted by catastrophic financial events in people's lives, said Duane Gillman, a Utah bankruptcy attorney who also serves as a court-appointed trustee, marshaling and selling assets of debtors, then distributing the proceeds.

"A lot of things can happen," Gillman said. "Medical wipeouts can happen. Someone may have wanted to go into business and it did not work out. They may have wanted to make a better brand of sealing wax and found people do not want sealing wax anymore."

Cynthia Patterson of Salt Lake City knows well how quickly family finances can deteriorate.

"My husband and I were doing OK until only a few of years ago," she said. "We both worked hard to support our seven children. We were not living in luxury, but we were doing OK."

He was a cabinet maker. She ran a home day-care service and did janitorial work at night. Early mornings, the family would deliver newspapers.

"We were not cloths," she said.

WE WERE NOT STORMS," SHE SAID.

Then two years ago, her husband got lung disease and could no longer work. Now, at age 47, he faces the prospect of having to get a lung transplant.

Their sharply curtailed income forced the Pattersons to file Chapter 13 bankruptcy, a type of filing designed to help people pay back what they owe by stretching out payments to creditors.

Yet things steadily worsened.

Their petition was dismissed after they again fell behind on payments to creditors. They sold a life-insurance policy for 30 cents on the dollar, but it was not enough.

The Pattersons now are considering filing for a much harsher Chapter 7 bankruptcy in an attempt to save their home from foreclosure.

Consumer Recklessness?: Such stories of personal catastrophies run counter to the perceptions of many politicians who blame America's spiraling bankruptcy rate on consumer recklessness.

To be sure, some people abuse the system. For example, one Utah laborer last year filed for Chapter 7 bankruptcy with unsecured debt of a little more than \$2,000.

Most people who file for bankruptcy in Utah and elsewhere, however, are not playing the system to rid themselves of inconvenient debt. Still, their motives are questioned.

As the U.S House debated bankruptcy reform in May, representatives complained Americans too casually resort to bankruptcy to escape their debts.

House legislation is aimed at restoring "values of personal responsibility and integrity" among debtors who too easily succumb to the temptations of easy credit, said Rep. Deborah Pryce, R-Ohio. "American consumers," she said, "are becoming dangerously comfortable with the concept of credit and debt."

Harvard University law professor Elizabeth Warren, like Gillman, argues most Americans in bankruptcy faced unexpected financial or family crises -- and have no reason to be ashamed.

"What part are you supposed to be ashamed of?" Warren asks. "That you lost your job? That you don't have insurance? That you can't support your kids after your husband walked out?"

Her upcoming book, *The Fragile Middle Class*, details research on thousands of Americans who filed for bankruptcy in 1991 and in early 1999. Warren found employees who lost high-paying jobs and slid into lower-paying ones; families ravaged by medical bills; and couples financially crippled by divorce.

The Tribune's study of Utahns who filed bankruptcy last year shows 30 percent were single parents supporting kids.

The rising number of insolvencies in Utah directly related to the burden of single parenthood and divorce is not lost on attorneys who practice bankruptcy law.

A separation often results in an immediate increase in personal spending for expenses such as legal fees and added child-care costs. Instead of one house payment or rent check, separating couples suddenly have two

suddenly have two.

"There is nothing sadder than a 22-year-old mother of three with no skills slinging hash someplace trying to keep financially afloat," Gillman says. "She is not a bum. She is not a welfare queen. She is out trying to raise three kids alone."

As Gillman sees it, too many young women go through the bankruptcy system -- women who believed if they got married they would live happily ever after.

And when reality sets in, financial problems are often compounded by credit-card debt that filers could handle until the crisis struck, Warren found.

"As consumer debt goes up, families' vulnerability to each of those bumps get greater," she said.

Tax Problems: Michelle and Christopher Johnson filed for bankruptcy after running into problems with the Internal Revenue Service.

A relative filed their income-tax returns in the late 1980s and made mistakes. In 1994, the IRS asked for \$20,000 in taxes and penalties.

Because they couldn't afford to pay, and the IRS was unwilling to take installment payments, "We figured the best thing to do was to file Chapter 13," Michelle Johnson said.

Over the next four years, the couple paid down their debt. But because of difficulties keeping up with the court-mandated payments, they have asked in three separate instances for more time to pay.

When they asked recently for the third time, the court dismissed their bankruptcy and the couple had to refile.

This time the couple is taking no chances.

"I would rather not pay my rent before I didn't make my payments under our bankruptcy," she said. "We are going to do whatever it takes to put this behind us."

All Walks of Life: The Tribune's study of last year's bankruptcy filers reveals the problem spans all walks of life.

Case files describe an aroma therapist living off \$400 a month and a bank manager cashing monthly paychecks of \$1,748. They tell of a student living off \$600 a month and a salesman bringing home \$100,000 a year. Even the professional occupations are represented: an electrical engineer bringing home \$56,000 a year; a lawyer whose monthly paychecks totaled \$3,740.

The typical Utahn who filed for bankruptcy last year, though, can hardly be described as well-to-do.

The median take-home pay -- which means that half the Utahns filing brought home more and half less -- was just \$1,645 a month or \$19,740 a year. And those wages barely covered monthly living expenses of \$1,615.

Even wealthier Utahns who filed for bankruptcy last year -- those in the upper 25 percent of all filers because they took home \$28,804 or more a year -- only had about \$300 left over at the end of the month after paying all their bills.

While the typical Utahn filing for bankruptcy in 1998 claimed assets of \$11,720, they also had \$42,239 in debt. Of that debt, \$19,066 was consumer debt owed on credit cards and other obligations not

was consumer debt owed on credit cards and other obligations not backed by property.

The typical Utahn filing for bankruptcy last year had two credit cards.

"Today, I still wonder how families with children, new cars and a home get by financially," said Tom Foley of Salt Lake City, who along with his wife filed for bankruptcy in 1988.

"It is so easy to get into debt," said Foley, who filed after a new home and the purchase of furnishings on credit left him with too little cash to meet the bills.

"All the time that we were going further and further into debt, the credit-card companies and banks would say 'yes' to our applications. If someone had said 'no,' we probably would have stepped back and taken a look at our situation before things got so bad."

Foley said he believes his Chapter 7 bankruptcy filing 11 years ago was the right thing to do. "When it was discharged, the relief was unbelievable," he said.

It also taught him a lesson: Avoid consumer debt as much as possible.

Credit-Card Debt: Those who have studied the growing rate of bankruptcies across the country suggest consumer and credit-card debt are among the primary causes of the rising numbers.

Beginning in 1996 and continuing through 1997, consumers were paying down their personal debts. Credit card companies were tightening up on the number of cards they were issuing, noted Jeffrey Evanson, securities analyst with U.S. Bancorp/Piper Jaffrey.

It led him to project the number of bankruptcies across the country would decline 5 percent to 10 percent this year.

So far Evanson has been right.

During the first quarter of this year bankruptcy filings nationally declined about 6 percent. In Utah, the number of bankruptcy filings through June 1999 reached 7,008 cases, four fewer than during the first six months of 1998.

Consumer installment debt, however, began increasing again last year and is continuing to rise, Evanson said. The recent lull in insolvencies, he suggests, is nearly over.

Desperate Attempts: Few people maintain huge credit-card balances because they intend to file for bankruptcy, said Ralph Mabey, a former Utah Bankruptcy Court judge now in private practice in Salt Lake City.

Testifying before Congress, Mabey suggested many consumers who run into financial problems use their charge cards in a desperate attempt to stay solvent and turn their fortunes around.

The credit-card industry has made the same observation.

"Data suggests that credit-card debt rises substantially in the months nearest to the filing of a bankruptcy petition," according to the industry-based Coalition for Responsible Bankruptcy Law.

Home-equity loans also often are viewed by those with too many bills as an answer, said Scott McCagno, president of the Consumer Credit Counseling Service of Utah.

The problem, McCagno said, is many of those who consolidate

The problem, McCagno said, is many of those who consolidate their debts with second mortgages do not stop charging once they take out the loan.

And if someone has borrowed more than the equity they have put into their home, it can cause big problems when they have to sell.

Still, not everyone who files for bankruptcy is seeking to walk away from their obligations.

Of the bankruptcy petitions filed in Utah last year, 42 percent were from Utahns who sought Chapter 13, a type of bankruptcy that allows them to repay their debts over time under the supervision of a trustee.

Many Utahns who seek protection from creditors are willing to try to pay back what they owe.

Utah ranked sixth among the 50 states in the percentage of Utahns filing for Chapter 13 last year.

"A lot of that is probably cultural," Gillman said. "Chapter 13 petitions are viewed by a lot of people as being better because debtors get an opportunity to repay those they owe. And the LDS culture encourages people to try and repay their debts."

But the local culture also could be contributing to the high number of bankruptcies in the state, said Salt Lake City economist Jeff Thredgold. The propensity for many Utahns who are of the LDS faith to pay 10 percent to their church as tithing can be a burden.

"That may get you blessings in heaven, but it can cause some additional financial stress here on earth," he suggested.

Salt Lake Tribune reporters Sheila R. McCann and Lesley Mitchell contributed to this report.



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Sunday, July 18, 1999

Whose Fault Is It When Debts Pile Up?

BY STEVEN OBERBECK and
GLEN WARCHOL
THE SALT LAKE TRIBUNE



Companies responsible for the daily deluge of credit offers consumers receive portray themselves as victims of the bankruptcy system.

They contend thousands of customers in Utah and nationwide are amassing huge bills with the intention of filing bankruptcy and walking away from debts.

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Such "bankruptcies of convenience" -- as the credit-card industry calls them -- are driving the growth of filings across the country, said Ashley Meece, spokeswoman for the Coalition for Responsible Bankruptcy Laws, a group primarily made up of credit-card issuers.

"One in four people who file have the ability to repay a big portion of their debts," Meece said. "But why should they, if they can legally avoid paying?"

A record 1.4 million Americans -- including 13,536 Utahns -- declared themselves insolvent last year. Bankruptcies nationally have increased more than 300 percent since 1980. Given those numbers, arguments rage over just who is to blame for the increase.

Banks and credit-card companies have persuaded members of Congress the fault lies with Americans who have lost their shame over filing for bankruptcy.

In May, the U.S. House of Representatives passed reform legislation backed by credit-card companies that would make it harder for Americans to file for bankruptcy. A Senate version is pending.

If it does, those seeking bankruptcy will be subject to a court-administered "means test" to determine if they can afford to pay back a portion of their debts.

■ **Credit Counseling
Information**

The legislation will make it harder for individuals to protect their personal vehicles from creditors. And anyone who has more than \$83 remaining at the end of the month after paying all their bills and living expenses will be forced to turn the excess over to creditors.

The idea: force more Americans into Chapter 13 bankruptcy, which requires them to repay their debts during a 3- to 5-year period rather than allowing them to walk away as Chapter 7 bankruptcy does.

Utahns Seek Chapter 7: Of Utahns filing bankruptcy last year, more than half -- 58 percent -- sought Chapter 7 bankruptcy.

At least one critic contends Chapter 7 filings are so high because some bankruptcy attorneys reflexively advise their clients to choose the option.

U.S. Bankruptcy Court trustee Duane Gillman, who also represented clients as a lawyer, said he sees debtors in Bankruptcy Court whose lawyers haven't explained the law to them.

"Sometimes when I ask them if they understand their options, it's the first time they've had that kind of discussion," he said.

A Salt Lake Tribune study of personal-bankruptcy filings in Utah last year shows at the extreme, one Utah attorney filed 99 percent Chapter 7 bankruptcies.

Some attorneys acknowledge privately that law-office economics encourage Chapter 7 filings. When such cases are filed, firms get their fees immediately. Under Chapter 13, the legal fees are collected as part of the debt reorganization plan.

Still, Gillman doesn't think it's law-office economics driving Utah's Chapter-7 shortcut. "It's laziness, not greed," he said. "A lot of attorneys are going for the quick-and-dirty filing instead of trying to work something out that might be better for their client."

Salt Lake City bankruptcy attorney Tom Neeleman, who represented more filers than any other Utah attorney last year, said some lawyers filing bankruptcy cases have too little experience with Chapter 13 or simply don't understand its complexities, so they file Chapter 7.

But Neeleman said he also sees too many people who want to file Chapter 7 on debt as low as \$2,000. "My first choice is not to do it. Go work it out. File a 13 and work it out," he said.

Too Many Cases: Few dispute too many Chapter 7 cases are filed.

But the Tribune's study of bankruptcy filings suggests many Utahns who seek Chapter 7 bankruptcy do so for legitimate reasons.

The study showed those who file for Chapter 7 bankruptcy generally are worse off financially than those seeking Chapter 13, suggesting creditors would not be able to collect much more from them even if the means test were used.

Utahns who sought Chapter 7 bankruptcy in 1998 took home less money than those filing Chapter 13 -- \$1,418 a month vs. \$2,011 a month. Their assets were worth only about \$7,600 compared with \$25,948 in assets claimed by those seeking Chapter 13.

The debt of those who sought Chapter 7 was \$39,078, compared with \$48,994 for those who filed for Chapter 13. But the Utahns who

filed Chapter 7 also had more unsecured debt: \$21,675 compared to the \$14,451 typical in Chapter 13 cases.

Repaying Debts: Clearly, those who can afford to repay their debts should.

The argument is over how to make that happen.

Reform legislation, according to Meece, will make it easier for women to receive alimony and child-support payments by giving those claims priority over other creditors.

Joan Entmacher, vice president of the Women's Law Center in Washington, D.C., agreed there is a lot at stake for women and children. But Entmacher said the legislation would make it harder for women to collect such payments. "What they do not say is that women will be first in line to collect unsecured debts," she said. "The new law provides a way for credit-card companies to move their claims ahead by becoming secured creditors. So basically, women will be first in line to get nothing."

Many bankruptcy lawyers and judges oppose the legislation, said Liza Loveridge, who heads the bankruptcy section of the Utah State Bar.

Although it requires an in-depth financial analysis before someone could file for Chapter 7, there is no provision for who does the analysis. "They want to force everyone into Chapter 13," Loveridge said. "People in the trenches are not for this."

Just because more bankruptcies are being filed does not mean debtors are abusing the system, said Gary Klein, staff attorney for the National Consumer Law Center in Boston.

"The reality is that more cases are filed because more American families are faced with crushing debt," Klein said.

The credit-card industry, he said, shares responsibility for the financial hardship they are suffering.

"Bankruptcy losses are really just bad loan losses," Klein said. "The problem for consumers is that the credit industry is too aggressively marketing loans to consumers who cannot afford to pay their balance in full each month. The industry does this because in the aggregate, those loans are profitable."

Meese, of the Coalition for Responsible Bankruptcy Law, has a different take. "We are not forcing people to take credit cards," she said. "The responsibility rests with individual consumers."

Consumer advocates such as Klein believe credit-card companies need to be more forthright in disclosing how much it costs to use their charge cards -- such as how much principle consumers really pay when they make only minimum monthly payments on their accounts.

And they want prohibitions against making credit cards available to students and others who have little ability to make little more than nominal payments every month.

It is an issue that particularly bothers Gillman.

"You have this sophisticated credit system that is encouraging children -- young people to go into debt. Everything is geared toward getting products into the hands of consumers, whether they can afford it or not," he said.

The new legislation would require bankruptcy filers to sign up for credit counseling.

"If there was a reform requiring budgeting as part of incurring consumer debt I would be all for that," Gillman said.

Tribune reporter Sheila R. McCann contributed to this story.



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The Salt Lake Tribune Business



WORLD UTAH SPORTS OPINION BUSINESS TRAVEL CITY LIGHTS UT. BOUND

Sunday, July 18,
1999

Consumer Counselors Help Dig Utahns Out of the Hole

BY LESLEY MITCHELL
THE SALT LAKE TRIBUNE

OGDEN -- Shane and Denise Odd love to shop, and they have done plenty of it since they were married five years ago.

Nowadays, though, they rarely set foot in a store, except to buy groceries and other necessities.

The Odds, after accumulating \$35,000 in debt and teetering on the edge of bankruptcy, contribute every spare penny they earn to becoming debt free.

"Don't buy it unless you need it. That's our motto these days," said Denise Odd. "Not only that, but pay cash. That way you know if you can afford it."

Denise Odd, the mother of 11- and 13-year-old girls from a previous marriage, credits the turnaround to the nonprofit Consumer Credit Counseling Service of Utah (CCCS).

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Influence Bankruptcy
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■ **Bankruptcy Statistics**



Shane and Denise Odd of Ogden found themselves over their heads in debt, but did not want to declare bankruptcy. They got help in lowering debt and preserving good credit at Consumer Credit Counseling. (The Salt Lake Tribune)

The counseling service, part of the National Foundation for Consumer Credit, provides an alternative to bankruptcy for those burdened with seemingly unmanageable debt.

The Odds fit that category.

Minimum monthly payments on their high-interest credit cards and other loans had grown to a whopping \$1,600 -- more than half their take-home pay. Their debt slowly reached a point where making those minimum payments and

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■ Few People Learn to Manage Money

■ Credit Counseling Information

paying for necessities such as rent, utilities, groceries and gasoline became impossible.

"We were in trouble and were really nervous about it," said Denise Odd, a medical clinic assistant who had filed bankruptcy in the early 1990s and had trouble getting credit for years afterward. "I didn't want to go through that again."

The Odds sat down with Sandy Lower, a counselor at the CCCS Ogden office. She examined their income, monthly debt payments and the total amount they owed.

"We knew we were paying a lot [in monthly debt payments]," said Denise Odd, "but when they totaled it up, it was really a shock."

But they said what really surprised them was that Lower gave them a strong sense of hope that they would be able to get out of debt.

The Odds agreed to stop using credit altogether (a program requirement), relying only on cash until they paid off their debts.

Being able to avoid bankruptcy often is a surprise to people who visit the credit counseling service, said Scott McCagno, president and chief

executive officer of CCCS of Utah, which counsels more than 6,500 Utahns a year.

"Sure, if you're a 21-year-old earning \$2,000 a month, you don't have the wherewithal to pay off \$70,000 in debt," McCagno said. "For that person, bankruptcy was the only way to go. But most of the time, there are options other than bankruptcy."

That is the hope of creditors -- banks, department stores and other businesses -- that provide the bulk of CCCS's budget. They fund the organization in hopes of getting at least their principal, and maybe even some interest, back from borrowers.

After all, if the borrower files bankruptcy, they may get nothing.

Counseling is free, but those on repayment plans pay an initial \$15 and \$10 to \$12 a month. And rather than pay each debt separately, clients pay CCCS each month. The service then pays each individual creditor.

CCCS tries to convince creditors to reduce the monthly payments owed. Creditors, for example, may agree to reduce or drop the interest rate on the debt. They also may agree to spread the debt over a longer period of time.

Many creditors, said McCagno, will waive the interest altogether.

"[CCCS] does a tremendous job of educating people that there are much better alternatives to bankruptcy," said Tom Morgan, manager of Zion Bancorporation's retail loan center and executive vice president of retail credit.

While the program cannot wipe out debts as Chapter 7 bankruptcy does, it often can accomplish what a Chapter 13 bankruptcy reorganization does, but without marring credit records.

Can't Repay

■ Few People Learn to Manage Money

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In the case of the Odds, CCCS was able to reduce or eliminate most of the interest they owed, in addition to stretching the payback period. The result: Their \$1,600 monthly payment was reduced to \$900.

And when they finish the program in three years, they will have good credit. They plan to take the \$900 they now pay CCCS and buy a home.

"We know we will be able to do it if we keep doing what we're doing," Shane Odd said.

Many people who make it through the program continue to use cash, counselors said. Some get one credit card for emergencies only, or one they use regularly and pay in full each month.

Initially, though, most clients indicate they had no idea they could get by paying for everything with cash.

After starting the program in mid-1998, the Odds began to think about Christmas -- and how they would cope without credit cards.

"It was amazing we made it through on cash," said Shane Odd, an Internal Revenue Service clerk. "We had never done that before."

Paying with cash was a big adjustment for Doug and Becky Coleman, who just finished paying off \$20,000 in debts after nearly 10 years in the CCCS program.

The Colemans, who manage a Baptist church camp in Weber County, have used only cash for the past decade.

When they started the program, "I didn't want to give up my credit cards," Doug Coleman said. "Not having plastic is a drag when you try and book an airline ticket or rent a car."

Their spending habits are entirely different today. They cannot relate to other couples who take out big loans to purchase pricey cars and use credit cards to splurge on items such as large-screen television sets.

The Colemans drive an older car. They shop carefully and often debate sizeable purchases for weeks, even months. They owe no one and have no plans to use credit cards again. In fact, they contemplated whether they even wanted to have a debit card, which automatically deducts purchases from a checking account.

"It is a total mindset change," Doug Coleman said.



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Sunday, July 18, 1999

Professor Names 3 Ways To Reduce Bankruptcies

Harvard law

professor Elizabeth Warren, who has studied the causes of personal bankruptcy, suggests three ways to cut filings:

-- Creditors should be required to more clearly disclose their interest rates, when they can raise them, and how long it will take to pay the debt, she said. Consumers often don't realize the true costs of buying on credit.

"Right on the bill, it should say, 'If you make the minimum monthly payment, it will take you X years to pay this off,'" Warren said.

Credit-card companies take advantage of consumers' knowledge gap, and lure them with low initial rates that can skyrocket with a late payment, she said.

"The people they're looking for are people on the margins economically, people who are too unsophisticated or too financially pressed to deal with credit responsibly," she said.

-- Warren calls for an anti-credit media campaign, similar to the current wave of anti-smoking ads funded by the national tobacco settlement. "We need to counter this image [presented by credit-card company advertising] that if you want it, take it," she said.

-- Warren traces the steep interest rates charged to some consumers today on the deregulation of the rates. The looser rules spawned high-risk lending, which has proven lucrative for companies but meant usurious or punitive rates -- plus penalties and fees for late payments -- for some consumers, she said.

Warren notes that only a small percent of filings -- set by researchers at about three percent -- appear to be abuse of the bankruptcy system.

-- Sheila R. McCann



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Sunday, July 18, 1999

Large Families Don't Influence Bankruptcy Stats, Database Shows

Utah is known for a pioneer heritage that encourages hard work, thrift and self-reliance.

So how can a state where such down-to-earth attributes are professed consistently rank among the nation's leaders in the number of bankruptcy filings per household?

Various theories have been offered over the years.

One suggests Utah's large families put undue strain on household finances, resulting in an unusually high number of insolvencies.

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The problem, though, is that no hard data are available to determine the theory's validity. The U.S. Bankruptcy Court for Utah has some information, but it is limited primarily to the number and types of bankruptcies filed.

"We have not collected personal information from the case files because it would not help us handle the cases or help the court run better," said William Stillgebauer, U.S. Bankruptcy Court clerk.

For the past six months, The Salt Lake Tribune has been compiling its own database to determine what was behind the rising bankruptcy numbers.

The database, the largest computer-assisted reported project undertaken by The Tribune, was set up on a software spreadsheet.

Tribune researcher and newsroom assistant Julie DeHerrera entered personal-financial information such as take-home pay, monthly expenses and mortgage payments that everyone who files bankruptcy must provide the U.S. Bankruptcy Court.

In all, DeHerrera collected information from 2,772 of the 13,536 Utah personal bankruptcies in 1998, or roughly one of every five cases filed.

After the database was completed, Dennis Eggett a statistics professor who heads the



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Center for Statistical Consultation and Collaborative Research at Brigham Young University, took a look. Eggett was hired by The Tribune to determine how well the

sample of 2,772 cases represented all Utahns who filed for bankruptcy last year.

His finding: The percentages drawn from the database are accurate within plus or minus 2.5 percent. And Eggett said he is confident the median numbers fall close to the true median for all those who filed for bankruptcy in 1998.

For example, the Tribune's database indicates the median monthly take-home pay for Utahns who filed for bankruptcy last year was \$1,645, or an annual take-home pay of \$19,740. Half of those filing had monthly income of more and half had less.

Eggett's calculations indicate someone using the database can be "95 percent confident" the true median falls within plus or minus \$33 of that number, or between \$1,612 and \$1,678.

Everyone who ever has filed for bankruptcy has a story, but most are loathe to share. The data, though, provides an additional glimpse into the personal-financial status of those Utahns filed for bankruptcy last year.

And in the end, it contradicted the theory that large families are one reason so many Utahns file for bankruptcy.

The database indicates half the Utahns who filed for bankruptcy had fewer than two dependents, while half had two or more, suggesting those with large families are no more likely to file for bankruptcy than those with few children.

-- Steven Oberbeck



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Sunday, July 18, 1999

Few People Learn to Manage Money

BY LESLEY MITCHELL

THE SALT LAKE TRIBUNE



The Utah State University Extension Service offers a course on gardening, and 100 eager learners crowd the room. It sponsors a money-management course, and only a handful of students appear.

Does that mean most people already know how to manage their money?

Becky Low doesn't think so.

The USU extension agent and others who promote financial education say people's reluctance to learn about money is partially responsible for the growing number of personal-bankruptcy filings in Utah and nationwide.

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Even among those who invest, "the [financial] sophistication of the public is really quite low," said Tony Taggart, Utah Division of Securities director.

He and Low said true financial savvy is developed over time.

But USU extension service courses and other sources of financial education offer general guidelines that can serve as a starting point for sound money management.

"It's really common sense-type stuff," Low said.

-- Track expenses.

Keep all receipts, which is easy to do with a checking account and credit cards. Carry a small notebook to record cash purchases.

"People don't like to do this -- it is kind of like going on a diet," Low said. "But it is the only way to truly know where your money is going."

-- Look for places to cut.

The extension service offers classes on the subject of budgeting and money-management topics. Information: (801) 468-3170.

-- Use credit sparingly.

"It is so easy to get into debt," said Lisa Peterson of the Consumer Credit Counseling

Repay

Service of Utah (CCCS).

■ Few People Learn to Manage Money

Cut up credit cards if you only are able to afford minimum monthly payments on your debt. CCCS offers classes and individual counseling sessions for those who want to pare down debt. Eight classes are offered by CCCS on topics such as budgeting and money

management; establishing and re-establishing a good credit record and understanding a credit report, buying a home and avoiding debt during the holidays.

-- Save.

The United States has a negative savings rate, meaning Americans spend more than they earn. Financial planners recommend families save 10 percent of their gross income. That means a family grossing \$50,000 a year should save \$5,000 -- about \$417 a month.

People ages 35 to 54 should save even more, 13 percent, according to Lincoln Financial Group. In a survey of more than 1,000 people conducted earlier this year, the financial services company found that nearly a third of respondents aren't saving anything for retirement.

Take advantage of savings plans offered at work and consider having a portion of your paycheck automatically deposited into a savings account. The goal is to have money set aside not only for retirement, but for unexpected expenses. A rule of thumb is to save three- to six-months worth of living expenses.

-- Don't forget insurance.

Life insurance is crucial for single-income families to ensure the nonworking spouse and children can recover in the event of his or her death. If disability insurance is offered at work, buy it. While it can be expensive to buy if it is not offered as a company benefit, it can be invaluable when a breadwinner becomes disabled.

-- Make an effort to become more financially savvy over time.

The consumer advocacy group Investor Protection Trust estimates fewer than one in five investors are financially literate. Reading personal-finance books and magazines is a good place to start.

If you rely on the help of financial professionals, make sure you check their records with the appropriate government agency or trade group.



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