Reed	Rockefeller	Wellstone
Reid	Sarbanes	Wyden
Robb	Torricelli	

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, let me yield to my colleague from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I ask that the Senate now proceed to the consideration of S. 1244 under the consent order.

RELIGIOUS LIBERTY AND CHARITABLE DONATION PROTECTION ACT OF 1998

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1244) to amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Religious Liberty and Charitable Donation Protection Act of 1998''.

SEC. 2. DEFINITIONS.

Section 548(d) of title 11, United States Code, is amended by adding at the end the following:

''(3) In this section, the term 'charitable contribution' means a charitable contribution, as that term is defined in section 170(c) of the Internal Revenue Code of 1986, if that contribution—

''(A) is made by a natural person; and

''(B) consists of—

''(i) a financial instrument (as that term is defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

''(ii) cash.

''(4) In this section, the term 'qualified religious or charitable entity or organization' means—

''(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or

''(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.''.

SEC. 3. TREATMENT OF PRE-PETITION QUALIFIED CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Section 548(a) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by striking ''(1) made'' and inserting ''(A) made'';

(3) by striking ''(2)(A)'' and inserting ''(B)(i);

(4) by striking ''(B)(i)'' and inserting ''(ii)(I)'';

(5) by striking ''(ii) was'' and inserting ''(II) was'';

(6) by striking ''(iii)'' and inserting ''(III)''; and

(7) by adding at the end the following:

''(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

''(A) the amount of that contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

''(B) the contribution made by a debtor exceeded the percentage amount of gross annual income specified in subparagraph (A), if the transfer was consistent with the practices of the debtor in making charitable contributions.''.

(b) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(1) by striking ''(b) The trustee'' and inserting ''(b)(1) Except as provided in paragraph (2), the trustee''; and

(2) by adding at the end the following:

''(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as that term is defined in section 548(d)(3)) that is not covered under section 548(a)(1)(B), by reason of section 548(a)(2). Any claim by any person to recover a transferred contribution described in the preceding sentence under Federal or State law in a Federal or State court shall be preempted by the commencement of the case.''.

(c) CONFORMING AMENDMENTS.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''; and

(B) by striking ''548(a)(1)'' and inserting ''548(a)(1)(A)'';

(2) in subsection (f)—

(A) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''; and

(B) by striking ''548(a)(1)'' and inserting ''548(a)(1)(A)''; and

(3) in subsection (g)—

(A) by striking ''section 548(a)(1)'' each place it appears and inserting ''section 548(a)(1)(A)''; and

(B) by striking ''548(a)(2)'' and inserting ''548(a)(1)(B)''.

SEC. 4. TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS.

(a) CONFIRMATION OF PLAN.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting before the semicolon the following: '', including charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of the gross income of the debtor for the year in which the contributions are made''.

(b) DISMISSAL.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following: ''In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)).''.

SEC. 5. APPLICABILITY.

This Act and the amendments made by this Act shall apply to any case brought under an applicable provision of title 11, United States Code, that is pending or commenced on or after the date of enactment of this Act.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in the amendments made by this Act is intended to limit the applicability of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

The PRESIDING OFFICER. Under the previous order, there are 10 minutes equally divided on each side.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I rise in strong support of S. 1244, The Religious Liberty and Charitable Donation Protection Act, which I introduced in October of last year.

When I held hearings on this bill before my subcommittee, I learned that churches and charities around the country are experiencing a spate of lawsuits by bankruptcy trustees trying to undo tithes or charitable donations. Under provisions of the Bankruptcy Code originally designed to fight fraudulent transfers of assets or money on the eve of bankruptcy, bankruptcy trustees have begun to sue churches when one of their parishioners declares bankruptcy, charging that tithes are fraud.

Of course, this puts the fiscal health of many churches at serious risk. Most churches and charities don't have big bank accounts. Having to pay back money that has been received and already spent is a real hardship for churches which often live on a shoestring budget. S. 1244 will protect against that.

Protecting churches and charities from baseless bankruptcy lawsuits will protect key players in the delivery of services to the poor. What do churches do with tithes? What do charities do with contributions?

They feed the poor with soup kitchens. They collect used clothing and help provide shelter for the homeless. And they do it with a minimal amount of Government assistance. In this day and age, where Congress is seeking to trim the Federal Government to its appropriately limited role, we must protect the important work of churches and charities. Mr. President, S. 1244 is a giant step in that direction.

This bill doesn't amend Section 548(A)(1) of the Bankruptcy Code. This means that any transfer of assets on the eve of bankruptcy which is intended to hinder, delay or defraud anyone is still prohibited. Only genuine charitable contributions and tithes are protected by S. 1244. Accordingly, a transfer of assets which looks like a tithe or a charitable donation, but which is actually fraud, can still be set aside. For example, if someone who is about to declare bankruptcy gives away all of his assets in donations of less than 15 percent of his income, that would be strong evidence of real fraud and real fraud can't be tolerated.

Mr. President, my legislation also permits debtors in chapter 13 repayment plans to tithe during the course of their repayment plan. Under current law, people who declare bankruptcy under chapter 13 must show that they are using all of their disposable income to repay their creditors. The term disposable income has been interpreted by the courts to allow debtors to have a reasonable entertainment budget during their repayment period. But these

same courts won't let people tithe. So, a debtor could budget money for movies or meals at restaurants, but they couldn't use that same money to tithe to their church. This is a direct and outrageous assault on religious freedom. And I think it's quite clearly contrary to Congress' intent in enacting chapter 13. I doubt anyone would have supported the idea that debtors could pay money to a gambling casino for entertainment but could not give the same money to a church as a tithe.

Mr. President, S. 1244 is necessary at this time because the Supreme Court struck down the Religious Freedom Restoration Act as unconstitutional last summer. A badly-divided panel of the Eighth Circuit Court of Appeals has recently ruled that RFRA protects tithes, even after the Supreme Court case. But that decision is being appealed to the Supreme Court. No matter what the Court does, we need to pass this bill now, and to subject churches to uncertainty and harassment by bankruptcy trustees.

Mr. President, I think it's important to remember that my bill protects donations to churches as well as other types of nonprofit charities. I did this because many well-respected constitutional scholars believe that protecting only religiously-motivated donations from the reach of the Bankruptcy Code would violate the establishment clause of the first amendment.

Now a concern was recently raised that S. 1244 doesn't protect unincorporated churches. That just isn't so. Professor Douglas Laycock, perhaps the leading scholar on religious freedom, has written to me on this topic and has concluded that unincorporated churches would in fact be protected. I ask unanimous consent that his letter be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. GRASSLEY. Mr. President, I would like to close on this note. When I chaired a hearing on tithing and bankruptcy before my subcommittee late last year, I heard from the pastor of Crystal Free Evangelical Church. This church is the one fighting right now in the Eighth Circuit Court of Appeals to keep the bankruptcy court out of its church coffers. Pastor Goold testified in a very compelling way about the practical difficulties his church has faced because of the Bankruptcy Code. As Pastor Goold put it, when there's a conflict between the bankruptcy laws and the laws of God, we should change the bankruptcy laws because God's laws aren't going to change.

Whether someone believes in tithing or not, it's clear that many Americans feel that tithing is an act of worship, required by divine law. It's completely unacceptable to have the bankruptcy code undo an act of worship.

EXHIBIT 1

UNIVERSITY OF TEXAS AT AUSTIN,
SCHOOL OF LAW,
Austin, TX, May 6, 1998.

Hon. CHARLES E. GRASSLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY: The question has arisen whether S. 1244 and H.R. 2604 would protect unincorporated churches. The answer is yes; unincorporated churches would be protected.

These bills protect organizations defined in §170(c)(2) of the Internal Revenue Code, which includes any ''corporation, trust, or community chest, fund, or foundation'' organized and operated exclusively for charitable, religious, or other listed purposes. The Internal Revenue Code defines ''corporation'' to include an ''association.'' 26 U.S.C. §7701(a)(3). An unincorporated association may also be a ''fund.''

The language of §170(c)(2) dates to shortly after World War I. Related sections drafted more recently use the word ''organization,'' which more obviously includes unincorporated associations. See, e.g., §170b and §§502–511. The implementing regulations under §170 and §501(c)(3) also used the word ''organization.'' 26 C.F.R. §§1.170 and 1.501. ''Organization'' does not appear to be a defined term. But Treasury Regulations define ''articles of organization'' in inclusive terms: ''The term articles of organization or articles includes the trust instrument, the corporate charter, *the articles of association*, or any other written instrument by which an organization is created.'' 26 C.F.R. §1.501(c)(3)(b)(2) (emphasis added) ''Articles of association'' clearly seems designed to include unincorporated associations.

The clearest statement from the Internal Revenue Service appears to be Revenue Procedure 82–2 (attached), which sets out certain rules for different categories of tax exempt organizations. Section 3.04 provides a rule for ''Unincorporated Nonprofit Associations.'' This Procedure treats the question as utterly settled and noncontroversial.

Tax scholars agree that §170 includes unincorporated associations. The conclusion appears to be so universally accepted that there has been no litigation and no need to elaborate the explanation. The leading treatise on tax-exempt organizations states: ''An unincorporated association or trust can qualify under this provision, presumably as a fund or foundation or perhaps, as noted, as a corporation.'' Bruce R. Hopkins, The Law of Tax-Exempt Organizations §4.1 at 52 (7th ed. 1997).

Borris Bittker of Yale and Lawrence Lokken of NYU says: ''Since the term corporation includes associations and fund or foundation as used in IRC §501(c)(3) is construed to include trusts, the technical form in which a charitable organization is clothed rarely results in disqualification.'' Boris I. Bittker & Lawrence Lokken, 4 Federal Taxation of Income, Estates and Gifts ¶100.1.2 at 100–6 (2d ed. 1989).

Closely related provisions of the Code expressly cover churches. I.R.C. §170(b)(1) states special rules for a subset of organizations defined in §170(c), including ''a church, or a convention or association of churches.'' I.R.C. §508(c)(1) provides that ''churches, their integrated auxiliaries, and conventions or associations of churches'' do not have to apply for tax exemption. These provisions plainly contemplate that churches are covered; they also prevent the accumulation of IRS decisions granting tax exempt status to unincorporated churches. These churches are simply presumed to be exempt.

There are tens of thousands of unincorporated churches in America. I am not aware that any of these churches has ever had difficulty with tax exemption or tax deductibility of contributions because of their unincorporated status. I work with many church lawyers and religious leaders, and none of them has ever mentioned such a problem. There are no reported cases indicating litigation over such a problem. If unincorporated churches were having this problem, Congress would have heard demands for constituent help or corrective legislation.

The fact is that legitimate unincorporated churches that otherwise qualify for tax deductibility under §170 and for tax exemption under §501(c)(3) are not rendered ineligible by their failure to incorporate. There is so little doubt about that that neither Congress, the IRS, nor the courts has ever had to expressly elaborate on the rule that everyone knows. This is a question that can be safely dealt with in legislative history affirming Congress's understanding that unincorporated associations are included in §170(c)(2) and Congress's intention that they be protected by these bills.

I consulted informally with Deirdre Halloran, the expert on tax exempt organizations at the United States Catholic Conference, and with tax professors here and elsewhere, who confirmed these conclusions. Ms. Halloran would be happy to respond to inquiries from your office if you need a second opinion.

Very truly yours,

DOUGLAS LAYCOCK.

Mr. GRASSLEY. I yield the floor.

Mr. HATCH. I compliment the distinguished Senator from Iowa and the distinguished Senator from Illinois for their work on this bill.

This is called the Religious Liberty and Charitable Donations Act of 1998, and I urge all of my colleagues to vote for its passage.

S. 1244 will help spell out the safe harbors for tithe-payers or others who contribute to charitable organizations and then find themselves in bankruptcy. It will work, together with the Religious Freedom Restoration Act in this area, to relieve burdens on often strained organizations that provide important services to our society. It will relieve an untenable burden on the religious rights of tithe-payers throughout America.

Mr. President, the issue of the status of tithes paid to churches by religiously motivated Americans who find themselves in bankruptcy proceedings has vexed tithe-payers and our courts for a number of years now. Vigilant, and some might say over-zealous, bankruptcy trustees have tried to recover tithes paid to churches as fraudulent conveyances under the bankruptcy code. Hundreds, if not thousands, of such claims for recovery against churches have been filed over the last few years. This has imperiled many churches, which operate on the offerings they receive as they come in. By the time a bankruptcy claim is filed, the money has been spent feeding the poor or otherwise serving the needs of the congregation. Many churches find it very difficult to make up money that has already been spent, and when they can, it weakens their ability to do the charitable and spiritual work that is part of the grand tradition of religious charity in America.

Not only are the churches themselves imperiled, but many believers are told by the government that they can no longer pay tithes once they have been in bankruptcy, even if a believing debtor wishes to forgo allowable entertainment expenses to pay the tithing they believe God requires of them. This is an unsupportable interposition of Uncle Sam and the bankruptcy system between believing Americans and God.

I believe we fixed the problem in 1993, when we passed the Religious Freedom Restoration Act (''RFRA''), which gave greater protections to religious activities across the board than the courts were affording at that time. An early bankruptcy case under that law, however, and the position the Clinton Justice Department took in that case, risked undermining those protections. Under pressure from me and others in Congress, the Justice Department reversed itself on direct orders from the President. And, luckily, the 8th Circuit Court of Appeals applied RFRA's stronger protections to the case. When that decision was appealed to the Supreme Court, however, it was vacated and remanded by the Supreme Court for further proceedings in light of the Court's decision in *City of Boerne* v. *Flores*,—U.S.—,117 S. Ct. 2157 (1997), in which it held that RFRA was unconstitutional as applied to the states. Upon the review of the Young case, I filed an amicus brief in the 8th Circuit, arguing with others that Boerne had no effect on questions of federal law such as bankruptcy, and so RFRA was constitutional and should apply in the bankruptcy context. I am pleased to report that the case of *Christians* v. *Crystal Evangelical Free Church*, 1998 WL 166642 (8th Cir. (Minn.)), decided last month, held RFRA to be constitutional for federal law purposes and protective of tithes in bankruptcy proceedings.

The uncertainty caused by Boerne accelerated the challenging of tithes as fraudulent conveyances, and in turn spurred our efforts to clarify the law. I am glad that RFRA will continue to be of service in this area, but I am also pleased that we will have targeted legislation to clear up any remaining confusion without undue confusion during further litigation. S. 1244 will help spell out the safe harbors or tithe payers or others who contribute to charitable organizations and then find themselves in bankruptcy. It will relieve burdens on often-strained organizations that provide important services in our society, and relieve an untenable burden on the religious rights of tithe payers across America.

Let me thank all of those who worked on this legislation, especially Senator GRASSLEY and Senator DURBIN, who are leaders on bankruptcy issues on the Judiciary Committee, and, in the case of at least Senator GRASSLEY and I believe Senator DURBIN, are strong supporters of the religious rights of our people. I thank both of them for the work in this area. We have worked to make this legislation useful and efficacious. So I urge all of our colleagues to vote for its passage.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Alabama.

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

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I rise to speak on behalf of the Religious Liberty and Charitable Donation Protection Act of 1998. It is an honor to work with my good friend from Iowa on this important piece of legislation, and I thank him for his leadership on this issue.

In an important 1970 Supreme Court case upholding tax exemptions for churches, Chief Justice Burger spoke of the Government's relationship with religion as being a relationship of ''benevolent neutrality''. It seems more and more that the Government's ''benevolent neutrality'' is becoming harder to discern, often being replaced with what appears to be ''outright hostility''.

A good example of this is found in Federal bankruptcy law. In the 1995 case of ''In re Tessier,'' a couple filed for bankruptcy under Chapter 13. Out of their net monthly income of $1,610, they proposed to continue making contributions to their church in the amount of $100 per month. This couple had deeply-held religious convictions about donating to the church as part of the exercise of their religious faith. They proposed spending only $200 per month on food, and nothing on entertainment, recreation, health insurance, life insurance, cable television, telephone, or even electrical utility service. Nevertheless, the Bankruptcy Court ruled that during the 5 year duration of their Chapter 13 plan, this couple could not make the proposed contributions to their church. This was in spite of the fact that the Court would probably have allowed them to spend that sum of money on entertainment or recreational expenses.

The matter of pre-bankruptcy contributions to a church or charity is also a matter of much concern. Several courts have actually interpreted the bankruptcy law to require churches to refund donations made to them in the year prior to a debtor filing bankruptcy. In making such rulings, the courts hold that donations to the church are ''fraudulent conveyances''—that is, by giving the money to the church without (according to the courts) receiving something economically valuable in return, they are defrauding their creditors. In reality, there is no fraud involved. And of course you can imagine the potential burden on small churches that may be just getting by financially—churches that have done nothing wrong—to find that they are required to repay a year's worth of contributions received from a faithful contributor.

The Grassley-Sessions bill is a commonsense bill that would clarify the Bankruptcy law to ensure that our courts will no longer make the sort of rulings that I have described.

Under our bill, contributions of up to 15% of a person's income, or a higher amount that is consistent with an individual's past practice of giving, will not be considered fraudulent when made during the year prior to filing bankruptcy. Consequently, innocent churches and charities would not have to repay such contributions.

Secondly, our bill will allow debtors under Chapter 13 repayment plans to make charitable contributions of up to 15% of their income. If bankruptcy law allows for spending on recreational expenses while under a Chapter 13 repayment plan, it should also allow an individual to tithe to their church or make reasonable charitable contributions.

Mr. President, this is an important bill which will help to restore the Government to its rightful position of benevolent neutrality toward religion. It will provide necessary legislative guidance in an area of bankruptcy law that has gotten off track. I urge my colleagues to join with me in support of this legislation.

Mr. President, I am honored to support this legislation. Senator GRASSLEY has done an excellent job in identifying an unfair component of the Bankruptcy Act. If an individual pays money to a nightclub, a casino, or to any other recreational activity whatsoever, that person who received the money does not have to give it back to the bankruptcy court. If they had given money to a charitable enterprise or a church, they could be required to give it back. And in chapter 13 where an individual pays out their debts on a regular basis, the courts have denied them the right to give money to charitable institutions as part of their regular payments while at the same time allowing them substantial amounts of money for recreational expenditures. We think that is unfair. We think this bill is a sound way to correct that problem.

I am honored to work with Senator GRASSLEY and support him in this effort.

Mr. DURBIN. Mr. President, it is a pleasure to stand in support of this legislation. Senator GRASSLEY and I have worked on it, but I want to give him the lion's share of the credit because this was his notion, his concept, and he has developed it into a very good piece of legislation.

We work closely together on these bankruptcy issues, and for those who are interested in bankruptcy stay tuned; there is more to follow. But I think you will find this bill noncontroversial and certainly one everyone should be able to support.

The bottom line here is whether or not you are dealing with a fraudulent conveyance. Someone in anticipation of bankruptcy may give away money and it is said by the court that you cannot do that; if you are going to give money away for nothing, then we are

going to come back later on in the bankruptcy court and recover it. But Senator GRASSLEY has pointed out, I think appropriately, the situation where people give money to a charity or a church, and he says that should be considered in a different category. And I agree. As he has mentioned in the opening statement, there is a limitation in the law of 15 percent of your annual income that can be given in this fashion. So we don't anticipate any type of abuse in this area.

I thank Senator GRASSLEY. It is a pleasure to serve with him and work with him. We have more to follow on the bankruptcy issue, but I am anxious to encourage my Democratic colleagues today to join with us in voting for this legislation.

Mr. SARBANES. Will the Senator yield?

Mr. DURBIN. I will be happy to yield to the Senator from Maryland.

Mr. SARBANES. I am prompted by something the ranking member of the subcommittee said which leads me to put an inquiry to him and to Senator GRASSLEY.

There are a number of bankruptcy districts in the country that are facing very serious problems in handling their caseload. I have been in frequent communication with the subcommittee about this, and obviously my district is one of them. It has consistently now, for 4 or 5 years, ranked at the very top of case overload of all bankruptcy districts in the United States. Every study that has been made has recommended additional bankruptcy judges, and I note for a fact that the existing bankruptcy judges in my district are severely overworked. This is denying economic justice to both creditors and debtors. It is a matter which needs to be addressed. It is a pressing crisis.

Now, the House sent over to us some time ago legislation providing for some additional judges based on comprehensive studies undertaken by the Administrative Office of the Courts and by others. This session is moving along. If we don't get some relief, we are going to continue to have this extraordinary situation which exists in quite a number of districts across the country in terms of reducing their backlog. It is a very severe problem in a number of districts.

I am prompted by Senator DURBIN's reference, and Senator GRASSLEY's assent to it, as I understood it, there is more to follow. So I just put the inquiry whether this is one of the matters to follow. I would certainly hope so.

Mr. DURBIN. Mr. President, if I might say in response to my friend, the Senator from Maryland, I agree with him completely. We now know that the caseload in bankruptcy courts has been growing every single year. It really taxes the system, and if not in this legislation, in the following bill I hope we will provide the resources to make sure the bankruptcy courts can respond.

Mr. GRAMS. Mr. President, I rise in strong support of Senator GRASSLEY's bill, S. 1244, which exempts individual tithes to churches from bankruptcy proceedings. The exemption is up to 15 percent of income to prevent abuse.

This problem was brought to my attention by the Crystal Evangelical Free Church in Minnesota, which prompted my cosponsor of this important legislation. The Church was sued and required to repay tithes given to it by individuals who had declared bankruptcy. Churches depend on tithes for their income to operate effectively. They should not be liable for debt repayment of their parishioners.

This legislation is needed to protect churches from this kind of abuse. It is the right thing to do. I commend the Senator from Iowa for his effective leadership on this issue.

Mr. HATCH. Mr. President, I ask for the yeas and nays on the bill.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There seems to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the committee amendment is agreed to and the bill is read the third time. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—99

Abraham	Faircloth	Lott
Akaka	Feingold	Lugar
Allard	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Breaux	Grassley	Nickles
Brownback	Gregg	Reed
Bryan	Hagel	Reid
Bumpers	Harkin	Robb
Burns	Hatch	Roberts
Byrd	Helms	Rockefeller
Campbell	Hollings	Roth
Chafee	Hutchinson	Santorum
Cleland	Hutchison	Sarbanes
Coats	Inhofe	Sessions
Cochran	Inouye	Shelby
Collins	Jeffords	Smith (NH)
Conrad	Johnson	Smith (OR)
Coverdell	Kempthorne	Snowe
Craig	Kennedy	Specter
D'Amato	Kerrey	Stevens
Daschle	Kerry	Thomas
DeWine	Kyl	Thompson
Dodd	Landrieu	Thurmond
Domenici	Lautenberg	Torricelli
Dorgan	Leahy	Warner
Durbin	Levin	Wellstone
Enzi	Lieberman	Wyden

NAYS—1

Kohl

The bill (S. 1244), as amended, was passed.

Mr. SESSIONS. Mr. President, I move to reconsider the vote by which the bill passed.

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

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business until the hour of 2 p.m. today, with Senators permitted to speak for up to 10 minutes each.

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

UNANIMOUS CONSENT AGREEMENT—S. 1260

Mr. DOMENICI. Mr. President, I ask unanimous consent that at 2 o'clock, the Senate begin consideration of S. 1260 under the consent agreement.

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

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2072 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DOMENICI. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

EQUITY IN PRESCRIPTION AND CONTRACEPTION COVERAGE ACT

Mr. REID. Mr. President, yesterday's USA Today headline: ''Viagra heightens insurance hopes for comfort care.'' The first paragraph says:

> While health insurers try to decide whether to pay for the impotence drug Viagra, a poll shows half of Americans think men should pay for it themselves.

Mr. President, I will bet those half are women. Women have really been treated unfairly in this. Senator OLYMPIA SNOWE and I introduced legislation last May, the Equity in Prescription and Contraception Coverage Act, which in effect said that health care providers that provide prescription drugs should also provide contraceptives.

We have waited a year. We have not been able to even get a hearing on this. The reason I am here today is to speak for American women who have been treated so unfairly by male-dominated legislatures for the last many decades.

Women pay about 70 percent more for their health care than do men, mostly related to reproductive problems. We have a situation where we have 3.6 million unintended pregnancies in this country every year. And 45 percent of them wind up in abortions. We find these insurance companies, these health care providers, will pay for a tubal ligation, they will pay for abortions, they will pay for a vasectomy, but they will not provide money for the pill.

An average pregnancy, unintended pregnancy, in this country costs an average of about $1,700. I say, why can't