

## Congressional Closeup by Carl Osgood

### Bankruptcy Bill Slowed in Senate

In contrast to the lightning speed with which it passed the House, the so-called bankruptcy reform bill went to the Senate floor on March 8 at a much more sedate pace. The slowed pace is largely the result of a raft of amendments, mostly by Democrats, that, if adopted, would change the character of the bill as compared to the one which passed the House.

The most important of the nearly 100 amendments expected to be taken up would significantly weaken aspects of the bill that give creditors more power over debtors. One, sponsored by Paul Wellstone (D-Minn.), would exempt debtors from Chapter 13 who can demonstrate that their bankruptcy was the result of medical expenses. Wellstone noted that some 50% of personal bankruptcies are the result of major medical bills. He said the bill, as written, "will have a very harsh effect on a whole lot of people . . . who are not able to file Chapter 7, for whom bankruptcy law has been a safety net." He warned that the bill gives credit card companies a higher priority than medical expenses.

Republicans argued that Wellstone's amendment was unnecessary, and it was defeated by a vote of 65-34. The pattern was repeated for Democratic amendments dealing with predatory lending practices, protection of retirement savings, and issuance of credit cards to anyone under 21.

### Republicans Repeal Ergonomics Rules

Four days before President Clinton left office, the Occupational Health and Safety Administration promulgated new workplace safety rules dealing with repetitive motion injuries. The

rules were seized upon by Republicans as a new *cause célèbre* against Federal bureaucracy, and the result was the first use of the 1996 Congressional Review Act (CRA) by the Congress to disapprove Federal regulations. The vote in the Senate on March 7 was 56-44, and the House followed the next day by a vote of 222-198.

Republicans argued that the regulation was too long and too complicated, and that it would cost businesses up to \$100 billion per year. Sen. Don Nickles (R-Okla.) said that the regulation would create a Federal workers compensation system that would supersede state systems.

Sen. Edward M. Kennedy (D-Mass.) argued that the President already has the authority to disapprove regulations and that using the CRA was unnecessary. He said that the process was being "rejected by those who want to overturn any opportunity to provide any protection for the millions of Americans who have been adversely impacted and injured by ergonomics injuries over the past several years." Democrats also argued that the Congressional disapproval would make it impossible for the Department of Labor to reconsider the issue of ergonomics, as Labor Secretary Elaine Chao has promised.

### Democrats Declare that Bipartisanship Is Dead

Just hours before the House passed the first part of President Bush's tax cut on March 8, Minority Leader Richard Gephardt (D-Mo.) told reporters that the process by which the bill was passed was purely partisan. Despite Bush's calls for comity and bipartisanship, "this is more of the same that we have seen over the last six years," Gephardt said. "This is a continuation of a

'my way or the highway' leadership."

On the tax bill, Gephardt suggested that "a better thing would have been for the Republicans and the Democrats on the Ways and Means Committee to really carry out a normal process . . . and come up with something everybody could say is reasonable." He said that a compromise "would have sent a good signal to the American people that the climate here had changed." Unfortunately, he said, "that has not happened."

Gephardt's complaints were echoed by Sen. John Kerry (D-Mass.), on March 11 during an appearance on ABC's "This Week." When journalist Sam Donaldson asked Kerry if bipartisanship were dead, Kerry replied, "I think the appropriate question is, was it ever really alive?" He said that the bipartisanship "has been mostly rhetorical statements," and that the tone "has not really changed." He gave a list of recent votes which the GOP rammed through, including the John Ashcroft and Gale Norton nominations for Attorney General and Interior Secretary, respectively, and the workplace rules resolution. On the budget, he said, "there's really been no bipartisanship at all."

### Domenici Introduces Bill on Nuclear Power

On March 7, Sen. Pete Domenici (R-N.M.) introduced a bill "to ensure that nuclear energy continues to contribute to the supply of electricity in the United States." The bill is a companion piece to one sponsored by Sen. Robert Byrd (D-W.V.), that addresses the use of coal in electricity generation. Domenici said that his bill "provides a comprehensive framework for ensuring that nuclear energy remains a strong option to meet our future

needs.” The bill’s 11 co-sponsors include three Democrats.

Domenici warned that traditional U.S. leadership in the field of nuclear power generation is at risk. He noted that no new plants have been ordered in more than 20 years. He attributed some of this to the oil price shocks of the 1970s and the fears that followed in the wake of the Three Mile Island incident. “But,” he said, “we also have allowed complex environmental reviews and regulatory stalemates to extend approval and construction times and to seriously undercut prospects for any additional plants. . . . We need concrete action to secure the nuclear option for future generations.”

The bill has five major provisions. First, is programs to support existing plants. Second, the bill encourages the construction of new plants, using the latest technology, to include development of the needed regulatory framework. Third, the bill “has provisions to secure a level playing field for evaluation of nuclear energy relative to other energy sources.” Fourth, the bill seeks other solutions to manage nuclear waste, and provides funding for a research project to study transmutation of spent fuel. The last provision provides “streamlining of Nuclear Regulatory Commission procedures and outdated statutory restrictions.”

## **F**einstein Bill To Boost Access to AIDS Drugs

On March 6, Sen. Dianne Feinstein (D-Calif.) and Russell Feingold (D-Wisc.) introduced a bill to improve access to AIDS drugs for developing countries, primarily in Sub-Saharan Africa. The bill codifies an Executive Order issued by President Clinton last year, that was intended to make it easier for Sub-Saharan nations to procure

affordable AIDS drugs. “Unless the United States takes a leadership role in recognizing that there is a moral obligation to put people over profits, the human devastation and social instability that has already begun in countries facing an AIDS crisis will grow to unfathomable levels,” she said.

The bill provides specific measures to ensure that affordable AIDS drugs are available. It prohibits the government from seeking any revision of law in any country that promotes access to AIDS/HIV drugs. It also calls upon the World Health Organization and the UN AIDS program to “take the lead in organizing efficient procurement of compulsory licenses of pharmaceutical patents, active ingredients of drugs, and finished medications for countries that require them.”

It also requires the Food and Drug Administration and the National Institutes of Health to develop a database for information on drugs, patent status, and treatment protocols to “assist healthcare providers . . . in providing the best care possible to all patients.” The bill, however, provides very little money for the procurement of drugs or for the reconstruction of health care infrastructure, which is badly needed in Africa, especially.

“This legislation,” Feinstein said, “is necessary to continue to assist the countries of the developing world to bring this deadly disease under control.”

## **L**eahy Reintroduces DNA Evidence Bill

On March 7, Sen. Pat Leahy (D-Vt.) reintroduced the Innocence Protection Act. He had first introduced the bill about one year ago, in the aftermath of Illinois Gov. George Ryan’s (R) moratorium on executions in that state.

Ryan’s moratorium was motivated by the fact that more individuals had been freed from death row, for reason of innocence, than had been executed, since the reinstatement of the death penalty in 1976.

Leahy noted that since he first introduced the bill, administration of the death penalty has not improved. In fact, ten more innocent people have been freed, mostly as a result of post-conviction DNA testing. “And those were the ‘lucky’ ones,” he said. “We simply do not know how many innocent people remain on death row, and how many may already have been executed.”

The goal of the bill, Leahy said, is simple: “to reduce the risk of mistaken executions.” To that end, the bill provides broader access to post-conviction DNA testing and also prevents the premature destruction of biological evidence “that could hold the key to clearing an innocent person or identifying the real culprit.” Leahy praised the many states that have already moved on the issue, but many states have done so in ways “that will leave the vast majority of prisoners without access to DNA testing.”

The second major provision of the bill addresses providing competent legal counsel for defendants in capital cases. Leahy said that current methods of selecting defense lawyers in death penalty cases “too often result in fundamental unfairness and unreliable verdicts.” He added, “It is a sobering fact that in some areas of the nation, it is often better to be rich and guilty than poor and innocent.” The bill calls for the creation of a Commission on Capital Representation to formulate standards for an effective system of representation. The bill also sets up block grants to states to provide additional resources for adequate counsel in death penalty cases.