

Congressional Closeup by Carl Osgood

Bankruptcy Reform Bill Is Reintroduced

The bankruptcy reform bill that President Bill Clinton vetoed after the end of the 106th Congress, was reintroduced in both the House and the Senate on Jan. 31.

The bill that George Gekas (R-Pa.) announced on the House floor, is essentially identical to the one vetoed by Clinton, with a new title, "The Bankruptcy Abuse Prevention and Consumer Protection Act of 2001." Gekas declared that this bill "could be part and parcel of President Bush's overall plan to meet the unstable economy head-on, to prevent some of the worst consequences of an economic downturn."

Gekas claimed that the bill "is tailored to make certain that anyone who is so overwhelmed by debt, so swamped by the inability to pay one's obligations, that that individual . . . would be entitled to a fresh start." However, he said, "certain provisions will be put in place which will make certain that those people who have the ability to repay some of their debts will be compelled to do so." Such individuals will be shifted from Chapter 7 filing, which allows complete discharge of one's debts, to Chapter 13, which requires at least partial repayment.

Among the bill's so-called consumer protections, is a needs-based formula to ensure that a debtor can only be forced to pay what he can afford. It also contains new credit card disclosure requirements, which will mandate that billing statements contain explanatory information with regard to minimum payments and introductory rates.

The bill includes provisions dealing with business and farm bankruptcy reform. One provision has mechanisms for weeding out businesses that are, in Gekas's words, "unable to reor-

ganize." Another would make Chapter 12 of the bankruptcy code, which applies to family farms, and has heretofore had to be renewed periodically, permanent.

Patients Bill of Rights Is Back on the Front Burner

Health maintenance organization (HMO) reform returned to the agenda on Feb. 6, with the introduction in both houses of a new Patients Bill of Rights. The bill, which passed the House last year but was stalled in conference committee, has picked up support in the Senate, with the addition of John McCain (R-Ariz.) and Lincoln Chaffee (R-R.I.) as sponsors. The bill includes the right to sue HMOs for damages resulting from treatment decisions, but requires that the appeals process, set up in the bill, be exhausted before a lawsuit can be filed. It also leaves in place state laws, such as those in Texas, where lawsuits are already allowed in state court.

At a Feb. 6 press conference attended by co-sponsors from both parties, McCain disputed the arguments of opponents of HMO reform. "Those allegations are not correct, as far as excessive litigation, as far as allowing patients to skip the appeals process as a way to hurt employees and cause them to stop providing health care to employees," he said. McCain argued that the fate of last year's bill, and the role played in it by insurance companies and HMOs, is a strong argument for campaign finance reform.

The press conference was overshadowed by the absence of Rep. Charles Norwood (R-Ga.), one of the principal architects, along with Rep. John Dingell (D-Mich.), of last year's bill. Norwood, Rep. Greg Ganske (R-Iowa), and an aide from the office of

House Speaker Dennis Hastert (R-Ill.) participated in a private meeting at the White House with Bush adviser Karl Rove. Norwood indicated afterwards that he would not immediately include his name as a co-sponsor on the legislation, in order to give Bush a chance to review the proposal. However, aides from both Norwood's and Ganske's offices reportedly said that there was a lot of "heavy armtwisting" in the three-hour meeting, to keep both of them away from the bill. Ganske was not persuaded, and is a co-sponsor of the bill. Supporters of the bill in the House, however, worry that the bill can't be passed without Norwood's support. On the other hand, Senate supporters now believe that they have enough votes to pass it, even over a filibuster.

Airline Mergers Generate Scrutiny

The recent wave of airline merger announcements has generated both praise and derision on Capitol Hill. On Feb. 1, the Senate Commerce Committee held a hearing to examine the effects of the proposed mergers involving United and USAirways, American and TWA, and, most recently, Delta and Continental. Committee Chairman John McCain (R-Ariz.) told the panel that the mergers will give a few airlines "the pricing power to slowly force out or severely constrain the growth of new entrants. The consumer is the one who will pay the price."

On Feb. 6, Sen. Ron Wyden (D-Ore.) called for a more extensive review of such mergers. He traced the current trend back to the early 1980s, and said, "The central problem stems from the fact that the major proponents of deregulation have not been willing

to simultaneously and vigorously enforce the anti-trust laws.” He called on the Federal Trade Commission to prepare a public report demonstrating that a proposed merger “will not have negative long-term implications for consumers and the economy,” before the Justice Department approves one more merger. “It’s time to make sure that these mergers don’t strand any more passengers with too few choices and too many headaches,” he said.

Others see the mergers as saving jobs and services, especially for Missouri, where TWA is based. Sen. Kit Bond (R-Mo.) called American Airlines “a shining knight on a white steed” coming to TWA’s rescue. Missouri Gov. Bob Holden (D) told the Commerce Committee, “We believe that if this merger were prevented, Missouri would lose nearly 33,000 jobs and \$876 million in annual wages, a devastating blow to our state’s economic future.” Sen. Jean Carnahan (D-Mo.) and House Minority leader Richard Gephardt (D-Mo.) are also supporting the American-TWA merger.

Tax-Cut Bandwagon Gets Push from Bush

On Feb. 6, President Bush unveiled a ten-year, \$1.6 trillion tax-cut plan that reduces the five current tax brackets to four lower ones, with the maximum rate set at 33%. It incrementally raises the child tax credit from \$500 to \$1,000, eliminates the marriage penalty, and gradually repeals the estate tax. It also allows taxpayers who don’t itemize to deduct charitable contributions. Bush claimed that his plan will provide an average of \$1,600 of tax relief for a family of four, and that cutting taxes will help Americans manage the debt load they’re running up as a result of rising energy and other costs.

While the GOP leadership of both houses is enthusiastically embracing Bush’s plan, Democrats are not so excited, though they support tax cuts in principle. Kent Conrad (D-N.D.), the ranking Member on the Senate Budget Committee, argues that a tax-cut plan should not be based on ten-year projections, such as Bush’s is. Conrad has been pointing out that the Congressional Budget Office’s latest ten-year budget surplus projection actually ranges from a surplus of more than \$1 trillion to a deficit of \$50 billion for 2006. “I don’t think we ought to be betting the farm on a ten-year projection,” Conrad told reporters on Feb. 5.

Conrad said that the tax-cut plan is “simply too big,” that it is weighted heavily to the wealthiest 1% of the population, and that “it does absolutely nothing to deal with the long-term debt crisis facing our country in Social Security and Medicare.” Unfortunately, he opened the door to some form of privatization of Social Security, because cutting benefits or raising taxes are not options, leaving open discussion of investing the trust fund monies in order to “get higher rates of return.”

Moderate Republicans have also voiced concerns. Sens. Lincoln Chaffee (R-R.I.) and Arlen Specter (R-Pa.) joined three Democrats in sending a letter to Bush calling for a mechanism to allow the cuts to be triggered only if the surpluses materialize. “In our view,” they wrote, “such a ‘trigger’ mechanism offers a safety valve to protect against what many senators fear: a return to deficits should economic conditions—and budget projections—change in the years ahead.” Senate Majority Trent Lott (R-Miss.) suggested that the idea is just a trap by Democrats, to make the surpluses and, hence, the tax cuts, disappear.

Feingold Reintroduces Death Penalty Moratorium

On Jan. 31, Sen. Russ Feingold (D-Wisc.) reintroduced a bill that would impose a moratorium on use of the Federal death penalty, and urges states to do the same. It would also establish a Federal Commission on the Death Penalty, to study the administration of capital punishment. In his floor remarks, Feingold credited Illinois Gov. George Ryan (R), who imposed a moratorium on executions in the state last year, for “unleashing a renewed national debate on the death penalty.”

Feingold cited a study by Columbia University Law professor Jim Liebman, released last June, on the overall error rate in the death penalty system. Liebman found that during 1973-95, courts found reversible error in nearly seven out of ten capital cases. Feingold said, “It is appalling that the system is making so many mistakes. And of course, the question remains: Are we in fact catching all the mistakes?” He added, “The serious prejudicial error that results in reversals is a phenomenon nationally, not just in Illinois.”

The Liebman study also found that there are problems of incompetent defense counsel failing to look for exculpatory evidence, and willful suppression of such evidence by police and prosecutors. Feingold said that such misconduct occurs because “capital cases are usually high-profile, high-stakes cases, particularly for the police or prosecutor’s personal, professional advancement.” Feingold criticized Federal administration of the death penalty, pointing out the racial disparities of death-row defendants, and prosecutors’ reliance on bargained-for testimony. “The need for a moratorium,” he said, “could not be more critical than it is today.”