

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FINISHING THE PEOPLE'S
BUSINESS: COMPLETION OF
BIPARTISAN TAX RELIEF

Mr. GRASSLEY. Mr. President, I wish to brief my colleagues on Democratic gridlock in the Senate, and the only reason I feel comfortable using that word is that in 1993, I remember the headlines in the papers referred to "Republican gridlock" in the Senate when certain provisions and portions of President Clinton's program were not being acted upon, at least the way the newspapers believed they should be, in the Senate. It seems to me we have a similar situation now, but I do not see the newspapers writing about Democratic gridlock in the Senate.

I wish to address my colleagues on a few provisions on the Senate calendar that are not being enacted, and these are the ones which I feel some expertise in talking about because they come from the Senate Finance Committee and deal with the legislative tax agenda.

I am ranking Republican on the Finance Committee, and I am pleased to report that the committee has completed action on a number of bipartisan tax relief measures. The items I am going to discuss happen to have cleared the committee unanimously, which ought to say something about why they should be acted upon on the floor of the Senate, and I raise the question then: Why are they being held up?

I will refer to two of many pieces of legislation about which I could talk.

The first is a charitable tax reform bill known by the acronym CARE. By the way, this bill was introduced as a bipartisan bill. Senator LIEBERMAN on the Democratic side and Senator SANTORUM on the Republican side worked closely with the White House because it is very high on the President's agenda.

The second item I am going to refer to is one that is Enron related.

Starting about a year ago, until about 3 months ago, Enron was voiced by everybody in the Senate as reason for doing certain actions—corporate governance, pension reform, 401(k) reform, et cetera. For some reason, we do not hear anything about it now, particularly from the other side of the aisle, because there is some legislation on the agenda that is Enron related that reforms the pension statute that would help protect future Enron employees from losing their retirement nest egg.

Again, both of these items—the charitable tax reform bill and the pension reform bill—were passed out of our committee unanimously. That is quite a reputation for a bill to have, considering how difficult it is to get even a majority view sometimes on the Senate Finance Committee.

I wish to briefly describe the merits of this legislation. The charitable tax

reform act is part of the President's compassionate, conservative initiative. The CARE Act has been carried forward on a bipartisan basis under the very energetic leadership of Democratic Senator LIEBERMAN and Republican Senator SANTORUM. Others, including our own leaders of the Democratic and Republican Parties, Senator DASCHLE and Senator LOTT, have pledged their efforts to pass this bill. The House passed this bill over a year ago, and did it on a bipartisan vote. Several months ago, the Senate Finance Committee reported this bill to the full Senate.

Most of the focus on the bill has been on provisions that reduce taxes. For instance, those who take the standard deduction—and that is about 70 percent of our taxpayers—will for the first time under this legislation be encouraged to contribute more to charities, and the incentive for doing that is the deductibility of these small contributions from their income taxes regardless of the fact that they take the standard deduction.

As we know, people who tend to take the standard deduction are in the middle or lower income tax brackets. So the key provision of this bill provides a broad-based tax benefit to lower income taxpayers.

This provision and others are obviously meant to, and will, enhance resources for charities to do their good work. This empowers people who are taxpayers to help charities, to empower the private sector of our economy to do more in humanitarian ways, and to have the resources to do what these organizations are already inclined to do.

Even though this is a tax reduction measure, because obviously there is some lost revenue when these deductions are taken, we have offsets in this bill so there is not a net reduction in revenue to the Federal Treasury. The Finance Committee, on a bipartisan basis as well, decided this should be done so that it was not subject to a point of order requiring 60 votes, or that we would be fiscally irresponsible in putting this tax benefit for charities into the individual tax law.

I say to my fellow Senators, unlike a lot of spending legislation, the appropriations bills that have come before this body recently, this proposal does not add to the deficit. The Finance Committee found two important tax policy initiatives to offset this bill. All of these are related to corporate or individuals doing things to avoid taxes that may, in fact, be legal but are not necessarily moral or ethical. So we use these income-raising measures to offset the revenue loss in the Charitable Contribution Act.

The first offset shuts down what are called corporate expatriations, also known as inversions. Let me explain to my colleagues that what we are talking about is corporations that over a long period of time have paid their taxes into the Federal Treasury ex-

actly the way they were intended to be paid but there has been a recent trend of some corporations setting up a shell corporation in a place such as Bermuda for the sole purpose of avoiding taxes.

We do not have any problems with people using our tax laws the way they were intended to meet international competition, but we are very chagrined at the act of people setting up a shell corporation for the sole purpose of avoiding taxes.

On the one hand, we have corporations that have traditionally abided by the laws and not tried to finesse those laws to their own benefit. They basically stayed here and they paid. Then on the other hand, there is the whole trend of corporate tax filings to avoid paying taxes. They basically have dashed from the country, and they have stashed the cash somewhere else to avoid taxation. That is what is called an inversion.

Passing the CARE Act will use the inversions as an offset so the money that would not be paid by corporations because they dashed and stashed the cash will still come to the Federal Treasury and will, in fact, offset revenue loss through the Charitable Tax Reform Act.

I started talking about these inversions in January. I made my intention very clear then, and ever since, to shut down shell corporations being set up in Bermuda for the sole purpose of avoiding legitimate taxation. For me, it is critical that we act on inversions before we shut down this place this fall. Now is our chance on the CARE Act.

We have people holding up this bill. They have to understand that they are responsible for holding up action on inversions. There are no two ways about it. They are not willing to shut down the immoral and unethical trend of corporate accounting by setting up shell corporations, going overseas to avoid taxation.

We have another important offset in this CARE Act. It is also an important bipartisan Finance Committee initiative. It deals with tax shelters. This bipartisan proposal—and it was drafted in concert with the Treasury Department—is a result of over 3 years of work. It is a result of careful consultation with key professional organizations such as the American Bar Association, the New York State Bar Association, the American Institute of Certified Public Accountants, and the Tax Executive Institute. This proposal was developed methodically and puts a premium on enhanced disclosures of tax shelter transactions. It also imposes tough penalties on those who undertake abusive tax shelter transactions.

So as in the case of inversions, those who are right now blocking the Senate, under this Democrat gridlock, from considering the CARE Act are also blocking action to shut down tax shelters.

I am pleased my colleagues on the Republican side are ready to proceed. Unfortunately, it is being blocked from

the other side of the aisle. I am hopeful we will see cooperation from the Democratic side and get a chance to debate this bill, but time is running out. If we do not act on the Charitable Reform Act, called the CARE Act, including shelters being shut down and including expatriations from being stopped, it will be clear where responsibility lies. It lies with those who are blocking the bill now.

A second piece of tax legislation that is caught in this Democratic gridlock is the pension reform bill. The pension reform bill is because of Enron-like corporate mismanagement, corporate greed, corporate fraud, corporate felons doing what they should not be doing, and that is mismanaging the money entrusted to them by stockholders and bondholders.

What happens when there is this sort of corporate mismanagement? Thousands of Enron employees see their 401(k)s decimated. I know Enron is basically a Texas corporation, but there were 150 Enron employees in my State of Iowa who found that to have happened to their 401(k)s. How did it happen under their 401(k)s? Because under corporate laws there are corporate rules that do not allow a 401(k) holder to actually control their own account; for instance, having to be 55 years of age before someone can get rid of their stock or control their stock. Through this legislation, we want to protect people from Enron-like occurrences in the future. We do that through the legislation we call the pension reform bill, with the acronym NESTEG. That was considered by the Finance Committee over the spring and the summer subject to hundreds of hours of bipartisan staff discussion.

That is how we get bills out of the Senate Finance Committee, through consensus. Every Member of the committee and even Members not on the committee with interests in this issue had input. It took several weeks. The discussions bore fruit. The chairman's markup with some amendments passed out of committee without opposition. This was all as a result of Members of this body saying Enron problems had to be solved. A lot of the people on the other side of the aisle were trying to fault President Bush's administration. They have not succeeded in doing that.

That is intellectual dishonesty. If you look at a lot of the corporate mismanagement problems and follow the calendar back to when the first decisions were being made to do some of these things, they go well back into the Clinton administration.

Our constituents, my 150 Enron employees, do not care who is to blame—Clinton, Bush, or whether nobody is to blame—except the corporate mismanager. The point is, they expect us to do something about it. A lot of this discussion was started on the other side of the aisle that brought us where we are now. There does not seem to be any interest on the part of the Democrat majority moving the pension

reform and 401(k) bills that are so necessary to make sure future Enron-decimated 401(k)'s do not occur.

I described how this bill was voted out of the Senate Finance Committee. There was another committee, the Health, Education, Labor and Pensions Committee, known as the HELP Committee, chaired ably by Senator KENNEDY, also working on some legislation in this direction. Chairman KENNEDY took a little different route. He decided, for whatever reason, to refuse to engage Republicans on his committee, and the result was a raucous markup and a party-line vote. As I have said so many times, contrasting the work of the Senate Finance Committee, which was very bipartisan, from the work of the HELP Committee, which was more partisan, we cannot get anything done in a Senate that is divided 50 Democrats, 49 Republicans, and 1 independent on a partisan plan. If you try to do that, the whole product is doomed. That was and is the fate of the HELP Committee bill on pension reform that came out of committee on a partisan vote.

I digress for a minute. We are all legislators. Our job is to legislate. It is our responsibility, especially in these times, to use our legislative resources to actually accomplish something for the American people. However, I am the ranking minority Member on the Senate Finance Committee. Republicans are in a minority in this bed. The Democratic leadership runs the Senate. Like a point guard in basketball or a quarterback in football, the Democratic leadership has the ball. They call the plays. Unfortunately, serious legislating is not a game. When the Democratic leadership puts legislating the people's business ahead of partisan interests, they will get a product out.

By the way, to be fair, that applies to Republican leadership, as well.

Two examples come to mind. One is the bipartisan tax relief legislation of last year. The Republican leadership cleared the way for the bipartisan Finance Committee package, cleared the floor, became law June 7, 2001.

Another example is the Sarbanes-Oxley corporation accountability bill. The Democratic leadership let Senators SARBANES and ENZI craft a bipartisan compromise that cleared the Senate floor and became law.

On the other hand, if the Democratic leadership wants to score political points and send a bill into the Senate ditch, that is their choice. Do not work with the other side, do not recognize that 49 of 100 Members of the Senate; somehow they do not exist. Do not respect 100 Senators. Do not respect Republican input on issues at hand. Just try to program your caucus poll-driven agenda down the throats of 100 Members.

In the words of the distinguished majority leader, politicize it. The path is clear on pensions. The Democratic leadership is facing a fork in the road.

The left fork is to play the partisan card. Pursuing that path means bringing up a bill that is designed to be controversial. It means bringing up a bill like the bill that came out of the Health, Education, Labor and Pensions Committee on a partisan vote. Then there is the right fork, bring up the Finance Committee bill, perhaps even with some bipartisan measures from the Health, Education, Labor, and Pensions Committee. Frankly, Senators BAUCUS, GREGG, KENNEDY, and myself made good progress. There is a bipartisan basis for proceeding. If the Democratic leadership follows this fork in the road, we can get a bill through the Senate, the very sort of thing people on the other side of the aisle have been clamoring for since last fall and for sure since January.

Where are we? The Enron bankruptcy occurred about a year ago. Enron employees' retirement accounts have been devastated. People across the country rightly demand action. Shortly after the new year, the President proposed a multipoint plan to reform retirement plans. I don't know how many times I have heard since the President made that statement last spring from the other side of the aisle that the White House needs to be engaged. The White House engaged the Congress is the way I look at it. I did not hear much talk about doing anything about pension retirement plans until after the President said we ought to be working on it. The House acted very quickly in April on pension reform. But the full Senate has not acted. We cannot send the President a bill until the Senate acts. Choosing a partisan course means the Senate has default. That is very regrettable.

Let me be clear. Republicans stand ready to work on this priority, and as we have already done, as indicated by the bill coming out of our committee on a unanimous vote, in a bipartisan manner, and even doing that in conjunction with committees that have tried to do the same thing in a partisan way.

I ask unanimous consent to have printed in the RECORD a copy of a letter dated August 30 this year from the Finance Committee Republicans to Senator DASCHLE, on pension reform.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, August 30, 2002.

Hon. TOM DASCHLE,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: We understand that you intend to bring pension protection legislation to the floor soon after the Senate reconvenes in September. As you know, both the Finance Committee and the HELP Committee have produced differing versions of pension protection legislation. Although both committees have acted, only one committee has acted in a bipartisan fashion and produced a bipartisan product: the Finance Committee. The Finance Committee's bill, S. 1971, was reported out unanimously. By

contrast, the HELP Committee reported a partisan product, S. 1992 on a party-line vote of 11-10.

We do not believe that a partisan approach is the way to proceed on such important legislation that will affect the retirement savings of tens of millions of Americans.

In the spirit of bipartisanship, therefore, we respectfully request that you call up the Finance Committee bill to serve as the underlying bill for the Senate's debate on American's retirement security. This good-faith gesture would expedite the Senate's action. Furthermore it would solve concerns due to the limited scope of S. 1992, which was due to HELP Committee's restricted jurisdiction in the retirement security area.

Using the Finance reported bill would facilitate, not preclude, the full Senate's involvement in the retirement security debate. It would send an important signal of bipartisanship to American workers and retirees who will be keenly watching this debate and would reassure them that we are working together in their best interests. And, as you said in your press conference with Senator Kennedy, "this isn't about political points." We agree with you, Senator Daschle. This shouldn't be about political points. It should be about good public policy and good pension policy for all Americans.

Sincerely,

Chuck Grassley, Don Nickles, Craig Thomas, Orrin Hatch, Jon Kyl, Fred Thompson, Frank H. Murkowski, Phil Gramm, Olympia Snowe.

Mr. GRASSLEY. I implore the Democratic leadership to get in gear. The American people deserve action on this charitable tax reform action called the CARE Act. We should not forbear on curtailing tax shelters and corporate expatriations, which all may be legal, but in a time during the war on terrorism for a corporation to flee the country to Bermuda and not do anything more than set up a shell corporation is unethical and immoral—tax shelters, where the people who write the tax shelters sell them on the basis of how much money you will save the corporation in taxes, and where the people who write them do not even have to defend them. That seems to me to be professionally unethical as well. In other words, sell your product to a corporation and then let them hold the bag.

We are losing a lot of revenue that can be used for charitable purposes under the CARE Act. Workers rightly expect a debate and action on a bipartisan retirement security package. Let's do the right thing. Let's do the people's business. Let's undo the gridlock on these important bills. Let's bring up the CARE Act. Let's bring up the NESTEG Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I came to talk about another subject, but I think what my distinguished neighbor and colleague, the ranking member of the Finance Committee, said is very important and bears repeating.

Yesterday we passed, 92 to 2, an election reform bill. I think that bill proves what Senator GRASSLEY just said. That was a bipartisan bill.

Senator DODD, the chairman of the committee, worked very closely with

Senator McCONNELL, the ranking member, and with me. We worked for about 18 months. It was not easy. But it was always done in a bipartisan fashion and we got the bill done.

The distinguished ranking member of the Finance Committee has pointed out other measures in the Finance Committee where they could work together. Sometimes they do—and then sometimes they bring legislation to the floor, report it out on a bipartisan basis, that the majority leader will not bring up.

If we had really wanted a prescription drug Medicare reform bill, we could have relied on the work of the bipartisan group on the Finance Committee. If we had wanted an energy bill, we should have relied on the bipartisan Energy Committee, with interest and expertise in the area, to report out a bill. It was taken away, for political purposes, from the Energy Committee by the majority leader. As a result, we got nowhere.

As I understand it, the Banking Committee reported out a good, strong, bipartisan terrorism risk reinsurance bill to provide terrorism insurance, a backup by the Federal Government so buildings and construction could get the insurance they needed to obtain financing to carry forward with some \$16 billion of construction in this country. That bipartisan bill was not the one that was brought to the floor. That is the reason we have gridlock.

When those people tried to bring up measures purely for partisan advantage, they did not get very far. That is why this Senate is known by everybody who watches it as the most dysfunctional Senate that anybody has seen in recent history. We have not even brought up a budget. I have labored long and hard on the Budget Committee, and we felt the product that came out on a party line, which proposed cutting defense spending and raising taxes in a time where we are at war and coming out of a recession, was not a good thing to do. It has not even been brought up. We could have come to a bipartisan agreement on a Budget Act that would have allowed us to move forward on appropriations.

We have inflicted ourselves with the wound of not being effective because, unfortunately, the majority leader has chosen to go with more political and nonbipartisan measures coming to the floor.

NURSING HOMES

Mr. BOND. Mr. President, I rise today to comment on a series of articles running this week in the St. Louis Post-Dispatch. The series began last Sunday with the headline "Nation's Nursing Homes are Quietly Killing Thousands" and anyone with a conscience should pause to consider its opening sentences:

Thousands of America's elderly mothers, fathers and grandparents are being killed each year in the nation's homes—frail vic-

tims of premature and preventable deaths. This quiet pandemic is rarely detected by government inspectors, investigated by law enforcement, appraised by medical examiners or prosecuted by anyone. These deaths are not at the hands of crazed "angels of death." Most are caused by fatal neglect traced to caregivers upon whom residents depend for food and liquid and for turning them in their beds to prevent the formation of life-threatening sores. . . .

In short, elderly nursing home residents are dying in our country today due to failures to provide the most basic and fundamental elements of care. The Post-Dispatch reports statistics from the National Center on Health Statistics, which show that starvation, dehydration or bedsores were the cause of death for 4,138 nursing home residents in 1999, including 138 such deaths in Missouri.

However, these appalling statistics may only be the tip of the iceberg. The Post-Dispatch reported that investigators and researchers, who have taken the time to take a closer look and compare patient medical records with their death certificates, conclude that the number of preventable deaths due to malnutrition, dehydration and bedsores is most likely considerably higher. Our colleague, Senator BREAU, believes that the number of avoidable deaths could number in the tens of thousands and research shows that anywhere between 500,000 to 5 million cases of abuse and neglect of our elders occur each year.

Personally, I know that Missouri has a terrible problem with some bad apple nursing homes. I know this because plenty of good folks back home have told me about their own horrific experiences with abuse and neglect of their loved ones. Furthermore, the General Accounting Office in recent years has amply documented decades of death and neglect due to the poor quality of care in too many of our Nation's nursing homes. In 1999, the GAO estimated that residents of one in four nursing homes in Missouri suffered actual harm from the care they received. Hearing these staggering stories and statistical figures was a wake-up call. I submit to my colleagues that no one here today can say "not in my backyard"—abuse, neglect and homicide in nursing homes in truly a national problem.

In my opinion, neglecting an elderly, fragile individual is no different than neglecting a child. Both are defenseless, both lack a vibrant voice, both are vulnerable and both suffer at the hands of those who are nothing more than cowards and criminals. Abuse of the elderly should be treated no differently than abuse of children.

Many of us on the floor today have taken strong stances with regard to corporate accountability. However, sending corporate titans up the river for cooking the books while excusing nursing home operators and others with fines and a slap on the wrist just doesn't square with me. Surely the lives of innocent folks who are not just suffering, but dying due to neglect