

about a public process with some accountability, will at least vote against cloture. I think that is almost as important an issue as the content, in terms of the future of this body. I am not being melodramatic about it. I hope we will have good support in the vote against cloture, much less the vote against the final product. I hope tomorrow we will be able to stop this.

I yield the floor.

The PRESIDING OFFICER. The minority leader.

#### LABOR-HHS NEGOTIATIONS

Mr. DASCHLE. Mr. President, I will use my leader time to depart from the ongoing colloquy with regard to the cloture vote on the bankruptcy bill to talk about the status of negotiations on the Labor and Education bill that has been the subject of a good deal of discussion over the last several days.

I think the headlines give us the current state of affairs with regard to the bill probably as succinctly as any headline can. The Washington Post, from a front page story above the fold this morning, simply stated the fact: "Budget Deal Is Torpedoed by House GOP. Move by leadership angers negotiators on both sides." That was the Washington Post.

The Los Angeles Times said it as well in their headline: "GOP Leaders Scuttle Deal in Budget Battle." They go on to describe exactly what happened in the budget battle on education over the course of the last several days.

The Washington Times had virtually the same headline, which simply read: "House Leaders Spike Deal On Budget."

The only word missing in most of these is the word "education." Because that is what the budget was about, the fight was about what kind of a commitment to education we ought to be making in this new fiscal year, now well underway. This is the last day of October. Of course, the fiscal year began on the first day of October. While the headlines didn't say it, this is what they were talking about.

We had a bipartisan plan that was worked out over the last several days with great effort on the part of Chairman STEVENS and Chairman YOUNG, certainly on the part of Senator BYRD, Senator HARKIN, Congressman OBEY. They worked until 2:30 Monday morning to craft what arguably could have been the single most important investment we will make in education in any fiscal year in the history of the United States. That is quite a profound and dramatic statement. I don't think it is hyperbole because we were prepared to invest more in education, more in smaller classes, more in qualified teachers, more in modern school buildings, more in afterschool programs, with a far better accountability program, with increased Pell grants, with more investment for children with disabilities and those preparing to go to college than we have ever made in a

commitment to education in our Nation's history. That was what was on the table.

Of course, as we negotiated these very complicated and controversial provisions dealing not only with education but whether or not we can protect worker safety, all of those issues had to be considered very carefully. It was only with the admonition of all the leaders to give and to try to find a way to resolve our differences that we were able ultimately to close the deal, resolve the differences, and move forward with every expectation that the Senate and House would then be in a position to vote on this historic achievement as early as Tuesday afternoon.

That is what happened.

So instead, today we are debating cloture on the bankruptcy conference report when we could have had an incredible opportunity to put the pieces together to give children real hope, to give school districts all over this country for the first time the confidence they need that they can address the myriad of problems they are facing in education today; to say, yes, we are going to commit, as we have over the last couple years, to ensure we have the resources to reduce class size and to hire those teachers and to break through, finally, on school modernization and school construction. We could have addressed the need for 6,000 new schools with the modernization plan that was on the table when the collapse occurred.

I come to the floor dismayed, disheartened, and extraordinarily disappointed that this had to happen, that the House leaders, House Republican leaders, spiked a deal that could have created this historic achievement.

What do we tell the schoolteachers? What do we tell the students? What do we tell all of those people waiting patiently and expectantly, who are hoping we could put partisanship aside and do what we came here to do. Forget the rhetoric, forget the conflicts, forget all the things we were supposed to forget in bringing this accomplishment about.

I don't know where we go from here, but this is part of a pattern. It isn't just education. There is an array of other issues. And perhaps this is an appropriate day to remind my colleagues of, once again, the GOP legislative graveyard. We can put up, perhaps, another tombstone today.

I think we can still revive this. Somehow I think there is still a possibility that we can do this. I don't know if it will happen this week—I don't know when it will happen—but I can't believe we are going to turn away from having accomplished what we could have accomplished with all of this.

Everybody understands that we may not have another chance. I am not prepared to put education into the legislative graveyard Republicans have created. But there isn't much chance we are going to deal with pay equity this year. There is no chance we are going to deal with campaign finance reform.

Let us make absolutely certain that when we come back early next year, we enact the Patients' Bill of Rights. That is a tombstone for the 106th Congress. Hate crimes, judicial nominations, the Medicare drug benefit, gun safety: all are tombstones to inaction. All are a recognition of the failure of this Congress to come to grips with the real problems our country is facing, a realization that now there is not much we can do anything about, except to rededicate ourselves to ensure that we will never let this Congress again take up issues of this import and leave them buried in the legislative graveyard.

Let us hope that we can revive school modernization and smaller class size. Let us hope that somehow, in the interest of doing what is right—we recognize how close we were Monday night, we recognize how important it is that we not give up, we recognize how critical it is that something as important as education will not be relegated to this legislative graveyard, or any other. Let us hope that in the interest of our children, in the interest of recognizing the importance of bipartisan achievement in this Congress, that we will do what is right, that we will take these headlines and turn them around and change them into headlines such as "GOP Leaders And Democratic Leaders Agree on Budget Deal," or "Democratic Leaders And Republican Leaders Agree To Historic Education Achievement"; with editorials that would say to the effect that, at long last, we have given children hope all over this country and we have given schools the opportunity to reduce their class size and improve educational quality without exception.

That is still within our grasp. I must say, the tragedy of all tragedies would be, somehow in the name of partisanship and in the name of whatever competition some may feel with the administration on this or any other issue, that we fail to do what is right; we fail to make a commitment that we know we can; and that we end up building more monuments to the lack of progress and real commitment to the issues about which people care most.

Mr. President, I come to the floor with the expectation that we can overcome the obstacles that remain and we truly can make a difference on education in this Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I thank the minority leader for his words.

I yield 10 minutes to the Senator from North Dakota, Mr. DORGAN.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

#### LEGISLATION LEFT UNDONE

Mr. DORGAN. Mr. President, I listened to my colleagues today—Senator FEINGOLD, Senator DURBIN, Senator WELLSTONE, and now the Democratic

leader, Senator DASCHLE—talk about a number of different issues. I want to take a moment to discuss my disappointment, as we near the end of this legislative session, with what this Congress could have accomplished, what we could have done for the American people, and what we left undone.

I note that in this Presidential campaign Governor George W. Bush talks about his desire to come to Washington, DC, to serve in the White House, and end the partisan bickering. As he says, he wants to "end all of the partisan bickering." Well, it takes two to bicker and it takes two parties to bicker in a partisan way.

We have almost, on occasion, had debate break out in the Senate on some very important issues. But we never quite had that happen this year because we can't get to an aggressive, robust debate on the things that really matter.

My colleagues talked about the bankruptcy bill. How did they do the conference on the bankruptcy bill? One party goes into a room, shuts the door, handpicks their members, and writes it by themselves. It is hard to have bickering, and it is hard to be partisan when one party is doing the work behind a closed door and saying to the other party: Here it is; like it or leave it.

The tradition of debate in this country is the sound of real democracy. The sounds of democracy results from bringing people from all around America into our centers of discussion and debate. From all of those areas of the country—from a different set of interests and concerns, from the hills and the valleys and the mountains and the plains and different groups of people—we have ideas developed and nurtured and then debated.

Someone once said: When everyone in the room is thinking the same thing, nobody is thinking very much.

We have people here who kind of like the notion that you must think the same thing. Apparently, Governor Bush thinks we must all kind of think the same thing; we ought to stop all this disagreement.

Disagreement is the engine of democracy. Debate is the engine by which we decide what kinds of policies to implement and what course this country takes in the future. The issues on which we never quite had the aggressive, robust debate that we should have had in this Congress include education. Do you know that for the first time in decades this Congress didn't reauthorize the Elementary and Secondary Education Act? We didn't pass it. Why? Because it was feared that when the bill was brought to the floor, people would actually offer amendments. Then we would have to debate amendments and vote on amendments. God forbid a debate should break out in the Senate. So the bill was pulled after a short debate. So we let the Elementary and Secondary Education Act lapse. It just didn't get done.

The Patients' Bill of Rights is another issue. We had sort of a mini debate here in the Senate on that because it was judged that there wasn't enough time to allow a robust debate. The Patients' Bill of Rights was not considered significant enough to allow a very robust debate on the different positions of the Patients' Bill of Rights. These, of course, are not just abstract discussions. The issue of whether we need a Patients' Bill of Rights is a very significant issue for a lot of American people who are not only battling cancer, but also having to battle their HMO or insurance company to pay for needed medical treatment.

I have shown my colleagues many times during discussions on the floor of the Senate a picture of Ethan Bedrick. He was born with horrible difficulties. He was judged by his HMO to only have a 50-percent chance of being able to walk by age 5, which means that his HMO said a 50-percent chance of being able to walk by age 5 was "insignificant." Therefore, they withheld payment for the rehabilitative therapy that Ethan Bedrick needed.

An isolated story? No, it goes on in this country all too often, day after day. I have told story after story on the Senate floor about it. We weren't able to get a final vote on this issue. We should have had a vote on the issue of a Patients' Bill of Rights toward the end of the Senate session because we would have had a tie vote, and the Vice President would have sat in that Chair and broken the tie. The Senate would have passed a real Patients' Bill of Rights if given the opportunity to vote again.

Do you know why we weren't able to do that? Because those who run this place didn't want a debate to break out. So they managed the Senate in a way that blocked any amendment from being offered. Since September 22 until October 31, not one Member of the Senate on this side of the aisle was allowed to offer one amendment on the floor of the Senate that was not approved by the majority leader. That is why a real debate didn't break out on the issue of the Patients' Bill of Rights.

The issue of fiscal policy is important in this country because we are now in the longest economic expansion in our country's history, and how to continue it is something we would want to have an aggressive, robust debate on. The majority party said: Well, all of this economic expansion is just all accidental. It didn't really result from anything anyone did.

Well, of course, that is not true. We passed a new economic plan in this country in 1993.

In 1993, we had the largest deficit in the history of this country. This country was headed in the wrong direction, and a new Administration, President Clinton and Vice President GORE, said let's change that; we have a new plan. It was controversial. It was so controversial it passed by one vote in the House and one vote in the Senate. Not one Republican voted for it.

They stood on the floor and said: If you pass this, you will throw this country into a depression, and you are going to cost this country jobs, and you will just crater this country's economy.

Well, we passed it and guess what happened? The longest economic expansion in our country's history. Unemployment is down, inflation is down, home ownership is up, personal income is up, welfare rolls are down, crime is down, every single aspect of life in this country is better because of what we did in 1993.

Now comes George W. Bush and the Republican Party saying: Do you know what we need to do now? We expect budget surpluses in the next 10 years. We need to take a trillion and a half dollars and use it for tax cuts. Let's lock those tax cuts into law right now.

Well, a number of groups have provided some very interesting analyses of this plan. Do you know what the threat is? Providing substantial tax cuts, the bulk of which will go to the top 1 percent, will put us right back in the deficit ditch we were in 8 years ago.

Don't take it from me. The risks of this kind of fiscal policy were described last week by the American Academy of Actuaries, which is one of the most respected nonpartisan organizations of financial and statistical experts. Their report says the Bush plan would probably signal a return to Federal budget deficits around 2015.

I encourage anybody to read their analysis. This is an independent, nonpartisan, respected group that says this tax cut proposal doesn't add up at all; it doesn't add up.

One of the questions is, Do we want to jeopardize the economic expansion that has been going on in this country, the progress we have made in this country, an economic plan that turned this country around? Do we want to jeopardize that with a fiscal policy that doesn't make any sense, that will put us back into the same deficits? Or what about having a debate on the question of Governor Bush's proposal of taking \$1 trillion out of the Social Security surplus and using it for private Social Security accounts for younger workers?

This is what Governor Bush said about that:

... and one of my promises is going to be Social Security reform. And you bet we need to take a trillion dollars out of that \$2.4 trillion surplus.

I don't know whether Governor Bush knows this, but the trillion he is talking about is already pledged. The reason we talked earlier about putting Social Security surpluses in a lockbox is we need them. The largest group of babies ever born in this country will retire in the next 10, 15, and 20 years. We are saving to meet their retirement needs. That is the \$1 trillion. You cannot use it twice. It has been saved to meet the needs of the Baby Boomers, which is what it was designed for, or you can take it away and use it for private accounts for younger workers,

which is what Governor Bush suggests. If that is the case, you will short change Social Security by \$1 trillion. You can't count \$1 trillion twice.

I simply make the point that on the issue of fiscal policy, we should have had a real debate on the floor of this Senate on fiscal policy. When Governor Bush and others say they don't like the partisan bickering, I don't suppose anybody likes it in those terms. I like robust, aggressive debate. I think that is the sound of democracy in this country.

When people say they have plans to take \$1 trillion out of Social Security, I say let's debate that. When they say let's have tax cuts that go to the upper income people and I think that will put the country back in a deficit ditch once again, I say let's debate that. When they say we don't have time to reauthorize the Elementary and Secondary Education Act because somehow it is not important enough, I say that ought to be the subject of aggressive debate in the Senate.

Let's not shy away from debate. Let's understand what good, aggressive, honest debate does for this democracy, and let's have a few debates from time to time on things that really matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa has 10 minutes.

Mr. HARKIN. Mr. President, I was going to speak about the bankruptcy bill and how bad it is for working families, especially the elderly, and talk about how most of the people who are getting into bankruptcy situations are families who have unusually high medical bills. That is true in my State of Iowa, and many of these are elderly people. I will talk about that as we go along.

However, I have to take a few minutes today to follow up on what our minority leader, Senator DASCHLE, just spoke about a few minutes ago. That is the status of the most important bill we have to pass, the education bill.

One day has passed since Republican and Democratic negotiators came to agreement on the health and education appropriations bill for this year. As I said on the floor yesterday, the agreement we reached was a product of long and difficult bipartisan negotiations. Senator STEVENS, Senator BYRD, Senator SPECTER, and I, along with Congressmen BILL YOUNG, DAVE OBEY, and JOHN PORTER, worked for months to craft this agreement. We worked past 1:30 yesterday morning to hammer out the last remaining differences. As I said yesterday, as with any honorable compromise, both sides gave and got. At times, the negotiations got a little heated, but both sides hung in there.

In the end, we came up with a good compromise. Chairman STEVENS and Chairman YOUNG led these final negotiations. They have been charged by their leadership to come to closure so we can conclude our business and pass the bill. That is exactly what they did.

Less than 12 hours after we reached an agreement and our staffs were bus-

ily writing the final conference report, a faction within the House Republican leadership, led by Congressman DELAY and Congressman ARMEY, decided to renege on our bipartisan compromise. As I said yesterday, I hope, in the interests of our children and our country, they will reconsider and let the bill go forward.

None of us is happy with everything in this bill. That is what bipartisan compromise is all about. Overall, passing this bill is in our Nation's best interests.

Right now, I will mention a few more details of the agreement we reached to demonstrate to my colleagues and the American people why it is so important. There is a 16-percent increase overall in education; class-size reduction, 35 percent more. That means 12,000 new teachers will be hired across America this next year.

There is a provision I have been working on for 8 years called school modernization. There is \$1 billion included for school modernization, the first time we have ever had it. If the Iowa experience is any standard—and I think it will be—this should generate somewhere between \$7 and \$9 billion in needed school repairs around the country.

Individuals with disability education grants go from \$4.9 billion to \$6.9 billion, a 40-percent increase, the largest in history, to help our local school districts educate our kids with special needs; also, \$250 million in funds to increase accountability and to turn around failing schools. That is almost double what it was before. We had the largest increase ever in Pell grants, to make college affordable to working families. In this bill, 70,000 more kids will be able to get Head Start, bringing the total in our Head Start Program to 950,000 kids.

There is money in there for youth training and youth opportunity grants; a 66-percent increase in money for child care; community health centers, up \$150 million to \$1.2 billion, meaning 1.5 million more patients can be served next year; the important low-income heating and energy assistance program, \$300 million more; Breast and cervical cancer screening, so that women can get the needed preventive health care they need, an \$18 million increase; NIH, a \$1.7 billion increase, the largest in our Nation's history. Afterschool care is almost double; it means 850,000 children will be served by afterschool programs. Also in the health end, 9,600 more research projects, one of which could bring major medical breakthroughs in cancer, heart disease, Alzheimer's disease, or Parkinson's disease. That is what is in this bill. Forty-two thousand more women would be screened for breast and cervical cancer. That is cost effective and saves lives.

There are a lot of things in this bill that are too important to be destroyed by last-minute partisan politics. As I said, nothing is perfect. The conference

agreement has a number of items about which I have concern. For example, at the insistence of Republicans, an important regulation protecting workers from workplace injuries such as carpal tunnel syndrome was delayed yet again. We have delayed these worker protections for 3 years now, and last year's conference report contained explicit language that they would not be delayed any further. Yet as part of the give and take of the final negotiations, language was included to delay implementing this regulation until June 1.

Each year over 600,000 American workers suffer disabling, work-related musculoskeletal disorders, like carpal tunnel syndrome and back injuries. Employers spend \$15 to 20 billion a year just for workers compensation related to these injuries. The estimated annual total cost to workers and the Nation due to ergonomics is as high as \$60 billion, according to the Department of Labor. So this is a major problem.

This proposal was initiated under Labor Secretary Elizabeth Dole in the Bush administration 9 years ago. This is not a partisan issue. It is a worker protection issue plain and simple.

Apparently, that is not good enough for Mr. DELAY. He wants to kill this important worker protection outright. I do not see how we can face the 600,000 people who are injured each year and say, "No, your health and your safety just aren't important enough to be protected." How can you say, with a straight face that protecting these workers from serious injury is a "special interest provision."

So I again urge the House Republican leadership to reconsider their decision to kill this important bill. We had a good, honest bipartisan agreement. Nobody loved every part of it, but it was decided upon honorably and in good-faith.

This is what the American people want and need. They want us to work together in good faith and to come up with a product that is in their best interest. A lot of sweat and debate and compromise went into doing just that. It is late, but it is not too late to bring back our agreement.

I am confident we would have more than enough votes in the House and Senate to pass it. And I have personally been assured by President Clinton that he would sign it as it come out of committee.

We ought to do what is right.

I just learned a few minutes ago that there is a possibility we are going to renege on the agreement that we reached in conference; that the language we adopted there is now being changed to reflect original language that we conferees talked about, fought over, discussed, changed, modified over a period of about—over a period of a couple of months but finally, Sunday night, over a period of about 2 or 3 hours. We finally reached language with which everyone agreed. I am now being told that language is being thrown out. It is being thrown out and

we are going back to the initial language that was the source of the contention.

If that is so then, indeed, we have reached a very bad situation in this Congress. If this is what happens, what it means is when we go to conference with the House and we come up with our compromises and we shake hands on it, we sign our names to it, if you happen to be in the majority, and you want to change it, then tough luck; it means absolutely nothing. We operate on our word around here.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HARKIN. Our word is our bond. When you can't trust people to keep their word, this institution goes downhill. I am afraid that is what is happening now.

The PRESIDING OFFICER. The Senator from Minnesota.

### BANKRUPTCY

Mr. WELLSTONE. Mr. President, first of all, let me thank Senator HARKIN for his presentation. Let me thank other Senators who have spoken, both about what has happened to the Labor, Health and Human Services appropriations bill and also about this bankruptcy bill. I say to my colleague from Iowa, to tell you the truth, this is part of the same pattern. He is talking about abuse of the legislative process, talking about a complete breakdown of bipartisanship, a complete breakdown of trust. That is exactly what you have here when you have a State Department bill, a conference report that is completely gutted, not a word in there any longer about it, the only thing left is the number, and then what is put in, instead, is a bankruptcy bill. Democrats were not consulted at all, in an effort to jam it through. That is the same principle.

I would think and hope every member of the minority party who cares about our rights, who cares about an open legislative process, who cares about integrity of the political process, would vote against cloture tomorrow because my colleague is talking about the same process.

It might sound very much like an inside thing to people who are following this. I know everything is focused on the election. But honest to God, American people, it is not. When these kinds of decisions can be made by a few people with no sunlight, no scrutiny, no exposure, you have a real abuse of the process. What can happen is that usually the people who are hurt are the little people.

Let me tell you, the people who are involved in this kind of process, the behind-the-doors process, sticking stuff in in conference committees, gutting conference reports, are folks who are well heeled, who have the lobbyists who know how to work this process for them. But the people who get hurt are not involved at all. That is what I want to talk about. I want to talk about the

way in which this conference report, this bankruptcy bill harms the most vulnerable citizens in this country, people who find themselves in desperate economic circumstances.

Please remember, Senators, 50 percent of the people who file for chapter 7 do it because of a medical bill that puts them under. Please remember: There but for the grace of God go I.

You can be as frugal as possible. You can be prudent. You can try to manage your family finances. And then you can have a medical bill that can put your family under. It took my family, my parents, 20 years to pay off a medical bill of years ago. Many people cannot do that. They find themselves in a horrible situation and then as a last resort, in order to rebuild their finances and sometimes just stop the harassment by creditors, in order to get back on their feet, people file for bankruptcy. That is what this piece of legislation is all about—making it impossible for people who, through no fault of their own, find themselves in terrible financial circumstances, unable to rebuild their lives and instead wind up essentially in debt slavery for the rest of their lives.

I think one of the things that has helped us in this debate—because I am confident Senators now see some of the harshness in this legislation—was a May 15, 2000, issue of Time magazine. The cover story was entitled "Soaked By Congress." It deals with this bankruptcy bill.

Although, frankly, not as harsh a version—it was a better version that Time magazine talked about—this article was written by reporters Don Bartlett and Jim Steele, who have, I think, won a Pulitzer for their work. They do great investigative research. It is a detailed look at the true picture of who files for bankruptcy in America.

You will find a far different picture in this Time magazine than the skewed version that has been used to justify this mean-spirited and harsh legislation. This article carefully documents how low- and middle-income families, increasingly headed by a single person, usually a woman, are denied the opportunity of a fresh start if this punitive legislation is passed. I hope Senators will vote against cloture.

As Brady Williams, who is chairman of the National Bankruptcy Reform Commission, notes in the article, the bankruptcy bill would condemn working families:

... to what essentially is a life term in a debtors prison.

Proponents of this legislation have tried to refute the Time magazine article. Indeed, during these final days of debate you will hear the bill's supporters claim that low- and moderate-income debtors will be unaffected by this legislation. Colleagues, if you listen closely to their statements, you will hear that they only claim that such debtors will not be affected by the bill's means test. Not only is that claim demonstrably false, the means

test and the safe harbor have been written in a way that will capture many working families who are filing chapter 7 relief in good faith, but it ignores the vast majority of the legislation which still imposes needless hurdles and punitive costs on all families filing for bankruptcy, regardless of their income. Nor does the safe harbor apply to any of these provisions.

You might ask, why has the Congress chosen to be so hard on ordinary folks down on their luck? How is it that this bill is so skewed against their interests and in favor of big banks and credit card companies? My colleague, Senator FEINGOLD from Wisconsin, spoke to that. It is because these families do not have the million-dollar lobbyists representing them before Congress.

They do not give hundreds of thousands of dollars in soft money to the Democratic and the Republican Parties. They do not spend their days hanging outside the Senate Chamber waiting to bend a Member's ear. Unfortunately, it looks as if the industry got to us first. Unfortunately, that is what this is all about.

The proponents of this bill argue that people file because they want to get out of their obligations, because they are untrustworthy, because they are dishonest, because there is no stigma in filing for bankruptcy, but any look at the data tells us otherwise.

In the vast majority of cases—again, 50 percent of the cases—it is a medical bill that has put people under or the main income earner has lost his or her job. There is a sudden illness, a major injury, major medical expenses, someone has lost their job, there has been a divorce, and what we are saying to these people is: We make it impossible for you to rebuild your lives. But when it comes to the lenders and the credit card companies, oh, it is a very different story.

In the interest of full disclosure, something that the industry is not very good at, I want my colleagues to be aware of what the credit card industry is practicing, even as it preaches its sermon of responsible borrowing. After all, debt involves a borrower but also a lender. Poor choices or irresponsible behavior by either party can make the transaction go sour. So how responsible has the industry been?

I suppose it depends on how you look at it. On the one hand, consumer lending is terrifically profitable, with high credit card cost lending, the most profitable of all, except for maybe the higher cost credit such as payday loans. I guess by the standard of responsibility to the bottom line, this credit card industry has done a great job.

On the other hand, if you define responsibility by promoting fiscal health among families, educating on the judicious use of credit, ensuring that borrowers do not go beyond their means, then it is hard to imagine how the financial services industry could be bigger deadbeats.