

an indicator of a robust economy, they are not necessarily an indicator of good fiscal management. Large surpluses, as I think we have seen, can lead to complacency with, and in some instances even misuse of, taxpayer dollars. While we should always be dedicated to ensuring the maximum benefit of every tax dollar that comes to Washington, we are now faced with the real possibility of a \$100 billion deficit in fiscal year 2002—a \$100 billion deficit.

Between increased funding for both the War on Terrorism and other domestic programs, our federal surpluses have vanished, and we are reentering the realm of deficit spending. We need to exercise fiscal restraint in our spending, and yet we appear to be heading for another omnibus appropriations bill at the end of this congressional session. Surely, Members on both sides of the aisle can understand that if this is the case, it means that there will be even more pork-laden measures tucked inside of these bills. Whether you are conservative or liberal, surely, it is an unacceptable strain on hard working Americans and our economy to have that type of pork barrel spending. The bottom line is that an omnibus appropriations bill prevents the proper individual consideration of spending measures, and it is bad for America.

Now more than ever, we should take steps to assure taxpayers that their hard-earned tax dollars are being well spent. Two months ago, I introduced the bipartisan Commission on the Accountability and Review of Federal Agencies Act—or CARFA Act for short. As in any bureaucracy, inefficient or low priority use of taxpayer's dollars are often serious threats to the credibility of an agency or program. We must be certain that the money we spend is not just allocated that way because we have historically spent it this way. Priorities change and our spending must change with it.

The CARFA Act would create a commission that is modeled on the successful Base Realignment and Closure BRAC Commission. Whereas the BRAC Commission examined military bases and the Department of Defense, CARFA would review Federal domestic agencies, and programs within agencies using a narrow set of criteria, which should produce significant results. The three areas of review are duplicative programs, wasteful or inefficient spending, outdated, irrelevant or failed programs.

If this legislation is enacted, the Commission, upon completion of its two-year review, would submit to Congress both its recommendations for the realignment and elimination of domestic agencies and programs, and proposed legislation to implement these recommendations. The Congress would then consider the Commission's proposed legislation in an expedited manner, with input from the committees under who's jurisdiction the affected agencies or programs fall. Following the committee's comment period, the

proposed legislation would be brought to the floor of each Chamber for debate and a vote. Like BRAC, the Commission's proposed legislation would be voted up-or-down without amendment.

The Commission on the Accountability and Review of Federal Agencies Act is about maximizing the benefit of Federal funds. Like BRAC, which directed that all funds saved be placed back into the DOD budget, any funds saved by implementation of CARFA's recommendations would be directed to support other more efficient domestic programs and agencies. In other words, any money saved would be put right back into other, higher priority domestic programs. That would be the best way we could spend the money.

The CARFA Act is about fiscal responsibility, and the Federal Government is accountable to the hard-working Americans who foot the bill. Personally, I think it would be wonderful if we were able to further increase the research budget for the National Institutes of Health, or IDEA—Individuals with Disabilities Education Act—because funds saved through the work of the CARFA commission would be more money available there. Priority spending would be done. This Commission has the potential to help us truly root out inefficiency, in the Federal Government in such a way that we can more fully realize the benefit of all Federal funds.

The CARFA Act is a good measure, and its enactment would send a positive signal to the American people that the Senate is attempting to exercise sound fiscal policy. I urge my colleagues to support it.

I urge my colleagues to look at the fiscal situation we are setting up right now with the spending and the lack of a budget bill, the lack of passing any appropriations bill, the \$100 billion fiscal deficit we are looking at for this fiscal year. We cannot afford this train wreck, and it is not wise at all for us to allow ourselves to slip into it. We really need to show the leadership to pass a budget resolution, to pass appropriations bills, to put caps in place, and to pass this CARFA bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. My colleague from Indiana wanted to speak for 5 minutes, so I ask unanimous consent he be allowed to speak for 5 minutes, after which I have the floor.

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

Mr. BAYH. Mr. President, I thank my colleague, the Senator from Minnesota, for his courtesy.

Mr. President, it is good to see you in the chair again. You have had the misfortune of being in the chair the last few times I took the floor, and I appreciate your forbearance as well.

ACCOUNTING REFORM ACT

Mr. BAYH. I come to the floor of this august body to call for the swift enact-

ment of the accounting reform measure, including the Leahy amendment. I do so because I believe very strongly that it is in the best interests of America at this critical time in our history. I believe it goes way beyond mere accounting issues.

What we are debating today deals with the financial security of millions of individual investors across this country, the security of their pensions, their 401(k) programs, and their other investments for the future of their children and their grandchildren.

What we are talking about today involves the very vitality of our economy, for those who have invested and not invested alike, the amount of investment that will take place in the economy, the number of jobs that will be created, the vitality of farms. What we are debating today involves the standing of America in the international economy; whether we will continue to be a safe haven for investments from those abroad, attracting the capital that helps us build a strong foundation for America's economy.

More than anything else, what we are debating today is nothing less than the basic values upon which this country has been based; whether we will continue to encourage those virtues that have always characterized America, whether we will continue to be the land of opportunity based upon hard work, ability, thrift, honesty, and playing by the rules or, instead, whether we will be perceived as the land of opportunity based upon artifice, avarice, and financial deceit. I believe the choice is clear and that the right thing, based upon traditional values and virtues, is embodied in the Sarbanes bill, including the Leahy amendment.

I congratulate our colleague, Senator SARBANES. He has demonstrated leadership and foresight in this issue. I believe the record will show that Senator SARBANES was a leader in this issue a long time before it became popular. It is wonderful when events combine with leadership to give us an opportunity to truly make historic progress in this body. I think Senator SARBANES has seized the moment.

I congratulate Senator LEAHY for his protection of whistleblowers and strong penalties against document shredding and financial fraud. He has made this a better bill.

Mr. President, as you know, we serve on the Intelligence Committee together, and since the tragedies of 9/11, our country has been involved in twin struggles: One, the physical national security of this country; and, second, getting this economy moving again to ensure the economic security of Americans across this country. There are parallels between these two challenges. Both occurred as a result of unexpected tragedies but have presented us with opportunities to make this an even better, stronger, more secure Nation. Both involve breaking the political gridlock and the bureaucratic inertia that all too often make progress in this Capitol

difficult. And both involve striking the right balance between individual freedom and liberty on the one hand, that we cherish, and collective security, which makes individual liberty meaningful, on the other.

I believe this bill strikes the right balance. It insists upon credibility and transparency of information provided to the marketplace, the very foundation upon which capitalism is built, but it does so with flexibility to ensure that the regulatory hand is as light as possible, and that the information provided, that transparency and credibility provided to the marketplace, is done in a manner that is least burdensome to shareholders and investors as possible.

For example, the prohibitions against auditors providing consulting services: We have seen, as the chairman would note, in recent years a vast expansion of expenses and consulting services which create an appearance of a conflict of interest.

We need to deal with this transparency to reassure the marketplace, but we need to do so in a way that imposes less regulation, burden, and cost upon existing shareholders as is humanly possible. This bill takes that approach by creating a presumption that certain consulting services will not be allowed, but by also providing flexibility to the new independent oversight board to waive that presumption, or the company and its auditors can go to the oversight board and say in this instance, under these facts, the presumption should be waived because we can provide the transparent data to the marketplace in a less costly manner by allowing our auditors to provide these consulting services.

Basically, the bottom line is where it makes sense to provide the consulting services, or the presumption or the appearance of conflict is not a conflict in fact, it can be waived, and the consulting services can be provided. That is the right balance for transparency and credibility provided in the marketplace in the less costly manner to shareholders.

I congratulate the chairman for incorporating that into the bill.

I have heard some of our colleagues and commentators talk about overburdensome regulations. I don't have the reflexive reaction to regulate. I am well aware that one of the few laws that we count on in Washington is the law of unintended consequences. But the fact that an error may be made is no excuse for doing nothing.

The right answer is not no action to address the inadequacies that we have seen, just as it is not an overburdensome action. The right answer, my friends, is a well-considered, thoughtful, well-balanced action to protect the interests of American investors, and to ensure the integrity of our economy. That is the balance which is struck in the Sarbanes bill.

That is why I compliment the chairman for all the work he has done.

Let me conclude. My colleague from Minnesota has been so gracious for allowing me to continue.

I am pleased to see the chairman in the Chamber. I hope he will have a chance to read the complimentary remarks I made about his leadership and his farsightedness.

I said he is the leader on this issue, and I congratulate him for that.

Let me conclude where I began.

This issue goes a long way beyond mere accounting issues. It goes a long way beyond economic policy. It goes to the very heart of who we are, what we stand for as a people, and the kind of values we cherish in United States of America. This will protect individual investors. It will help to ensure the integrity of our economy. But more than anything else, it will ensure that those Americans who have embraced our tradition with virtues, who have worked hard and saved their money, who have played by the rules, and are honest are able to get ahead in this society.

It will send a loud and clear signal to those who practice financial deceit and financial chicanery that they do not have an avenue to success in this country. That does not embody the best values of America.

That is why I strongly support the Sarbanes bill and the Leahy amendment.

I urge my colleagues to enact this important legislation.

I thank the Chair. I yield the floor.

Mr. SARBANES. Mr. President, I say to my good friend, the distinguished Senator from Indiana, that he said I should read his gracious comments. I actually saw them on one of the monitors. That is one of the reasons I came to the floor. I wanted to express my personal appreciation to the Senator for his very kind remarks.

But even more, I wanted to underscore the constructive contributions which the Senator made to this legislation in the course of its consideration by the committee. I know how closely he followed what we were trying to do. He came forward with a number of ideas that were most helpful to us in shaping this legislation. I think the statement he just made reflects his own deep appreciation of the seriousness of the issue with which we are trying to deal, the import it has for the functioning of the American economy, and how he understands that they are very important issues.

If we don't move to restore confidence in the U.S. capital markets, there will be a negative impact on our economy. We are seeing some of that now. We have already seen this tremendous loss in the value of the retirement plans. People have just been wiped out. Tens of thousands of people are being laid off. The impact on the economy is beginning to spread. We need to move in order to counter that and start ascending in a different direction.

I particularly want to thank the Senator for his consistent help in the committee as we marked up this legislation.

Mr. BAYH. I thank the chairman.

Mr. SARBANES. I thank the Senator from Minnesota.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PUBLIC COMPANY ACCOUNTING REFORM AND INVESTOR PROTECTION ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2673, which the clerk will report by title.

The assistant legislative clerk read as follows:

A bill (S. 2673) to improve quality and transparency in financial reporting and independent audits and accounting services for public companies, to create a Public Company Accounting Oversight Board, to enhance the standard setting process for accounting practices, to strengthen the independence of firms that audit public companies, to increase corporate responsibility and the usefulness of corporate financial disclosure, to protect the objectivity and independence of securities analysts, to improve Securities and Exchange Commission resources and oversight, and for other purposes.

Pending:

Daschle (for Leahy) amendment No. 4174, to provide for criminal prosecution of persons who alter or destroy evidence in certain Federal investigations or defraud investors of publicly traded securities.

Gramm (for McConnell) amendment No. 4175 (to amendment No. 4174), to provide for certification of financial reports by labor organizations to improve quality and transparency in financial reporting and independent audits and accounting services for labor organizations.

Miller amendment 4176, to amend the Internal Revenue Code of 1986 to require the signing of corporate tax returns by the chief executive officer of the corporation.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to be added as a cosponsor of the Leahy amendment.

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

Mr. WELLSTONE. Mr. President, I wanted to come out here on the floor and thank Senator SARBANES for his leadership in putting together a piece of legislation that deals with structural reform of corporate governance and auditing independence.

I also think what the chairman didn't do is very important. Senator SARBANES didn't just call for a roundup of the usual suspects but for the prosecution of the worst offenders who deliberately have enriched themselves at the expense of the employees, investors, and creditors, and then try to claim that it is the end of the matter. This bill does hold bad actors accountable for their fraud and deception. And it is probably going to be stronger by the time it leaves the Senate Chamber.

The legislation goes much further, and it should because the problem goes