SENATE—TUESDAY, *February 2, 1993.*

(Legislative day of Tuesday, January 5, 1993)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Senate will come to order.

The prayer will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Before the prayer, a moment of silence. Dr. Allan George Thurmond, Senator THURMOND'S brother just died. Let us remember the Thurmonds in silence.

Almighty God, Lord of history, Ruler of the nations, thank Thee for our new Government and prosper its efforts. May Thy blessings be upon the new Senators as they labor. Help all Your servants to be aware of the mandate that transcends that of the people.

You have said "* * * there is no power but of God: the powers that be are ordained of God." (Romans 13:1) They are to be "ministers of God for good."

Grant to Your servants the ability to be leaders rather than followers, to lead the people to what is needed—what is right—rather than what the people demand.

Give them courage, gracious Lord, to make hard decisions that are unpopular, to submit to conscience rather than expediency, enable Your servants to fulfill their mandate.

Before I finish, thank You, Lord, for the love and prayers I have received from the Senators in these days of being laid aside.

In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The Senate will be in order.

Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning following the time reserved for the two leaders, there will be a period for morning business until 11 a.m., during which time Senators may speak for up to 5 minutes each. At 11 a.m. this morning, the Senate will begin consideration of S. 5, the family and medical leave bill. It is my intention that the period between 11 a.m. and 12:30 p.m. today be for the purposes of opening statements and debate only on that bill. I hope shortly to obtain unanimous consent to that effect.

Once the Senate reconvenes at 2:15 p.m. today, the Senators should be aware that amendments will be offered and rollcall votes could occur any time this afternoon and into the evening. It is my hope and my expectation that the Senate will expeditiously complete action on this bill so we can then proceed to consider S. 1, the National Institutes of Health authorization bill.

Under a previous order, I have the authority to call up that bill following consultation with the Republican leader. I have assured the Republican leader that it is not my intention to go to that measure until the Senate has completed action on the family and medical leave bill.

Therefore, Mr. President, cooperation on the part of all Senators would expedite Senate consideration of these bills, thereby eliminating the need for late night sessions this week, or especially on Friday, February 5.

I hope, also, that we will be able to take up this week, following the NIH authorization bill, a resolution to be jointly sponsored by Senator DOLE and myself regarding the situation in Somalia.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and all of the time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of the two leaders will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of morning business until the hour of 11 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Michigan [Mr. RIEGLE] is recognized.

COST-OF-LIVING ADJUSTMENTS ON SOCIAL SECURITY

Mr. RIEGLE. Mr. President, I thank the Chair. Mr. President, I rise today to talk about the facts relating to any suggestion—and I think mistaken suggestion—about reducing or eliminating cost-of-living adjustments on Social Security. I want to just cite some basic facts here so that we get a frame of reference so that nobody misunderstands this problem.

First of all, the retirement fund under Social Security is in very solid financial condition, and it is not contributing in any way to the Federal deficit. At the end of last year, we had about $300 billion in surplus—extra money that had been accumulated in the Social Security retirement fund—and this year we will add to that surplus another $53 billion. So this fund is in very strong financial condition, as it properly should be. It is an insurance trust fund.

Workers today, and in the past, have been paying into that fund, as have their employers, and that money has been building up. What is happening here is that some people in the past, and some in the present time, say that we ought to eliminate the cost-of-living adjustment under Social Security in order to try to reduce the Federal deficit.

That is absolute nonsense. It has nothing to do with the Federal deficit. In fact, we have already passed a law to take the Social Security trust funds out of the Federal budget so that kind of a game cannot go on.

The cold fact of the matter is that some people want to cut Social Security cost-of-living increases because they do not want to have to make other difficult decisions in the Federal budget, such as spending cuts, and other areas that actually are causing the deficit to go up, or to face honestly and directly the question of revenues, what tax items might have to be adjusted, particularly taxes on high-income individuals, that can bring the money into the Government that it needs, so that we can reduce the deficit in that fashion. Obviously, we need a jobs program, an economic growth strategy that can make the economy accelerate to a higher level so that we will have more business activity, more income coming in, and that will also help close the deficit.

An aggressive jobs strategy is the single most important way to bring down the Federal deficit over a period of time. So this is not a deficit reduction issue; it only is in a phony sense.

Let me tell you the damage that would happen if the cost-of-living adjustment in Social Security were to be done away with or in some way re-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

duced. If the Social Security adjustment for cost-of-living increases were taken away for a year, it would push at least a half million seniors down into poverty. Push them below the poverty line. And more than that, it would reduce the standard of living of over 40 million people now receiving Social Security benefits.

In my home State of Michigan, I have 1,500,000 individuals today who are receiving Social Security benefits. Every single one would be harmed if they did not get that inflation adjustment, which is already built into the law and built into the financial balances that have accumulated and are continuing to accumulate in the trust fund. Moreover, if that COLA, that cost-of-living adjustment, were to be done away with for a year, the senior citizens that are affected do not just lose it for 1 year, they lose it for every year thereafter. So they would lose it this year, and it would also be gone for the next year, and the year after, and the year after, and the year after that, as long as that person lives.

That is part of the accounting trick in this whole thing, is to try to wring a false savings out that can be applied against a Federal deficit that has absolutely nothing to do with the solvency of the retirement insurance trust fund. So it is dishonest, it is disingenuous, it is wrong, and it ought not to be allowed to happen.

The average person on Social Security today gets a benefit of about $650 a month; that is $7,800 a year. Some people do not get that much, some only get $400 a month. Some get less than that. And if this cost-of-living adjustment is to be done away with or reduced to just keep people even with inflation, we are going to be taking food and medicine right out of the mouths of senior citizens, many of them in very, very tough financial circumstances.

I visited many of them in their homes in Michigan. A lot of them have anywhere from $100 or $200 a month just in medical bills for medicines, for prescription medicines that they need to sustain themselves so they do not have to go into an extended care facility or into the hospital and otherwise have to face even worse circumstances. So seniors need that protection against the rising costs in inflation, and it has been built in for that purpose.

So you have a situation where so many of the seniors, now, are getting by just on their Social Security income. In many cases it is a very low figure anyway. If you do not allow that annual inflation adjustment, what happens is you are reducing their standard of living, because their utility bills are going up, their food bills are going up, their prescription drug bills are going up, their doctor bills are going up—everything is going up. And so that is why we have built in this annual adjustment in Social Security, so they do not fall behind and they do not fall into poverty.

As I say, we have over $300 billion collected in that fund right now, precisely to protect our seniors, both for their basic retirement benefits and to see to it that those COLA benefits, those cost-of-living adjustments each year, can take place.

I want to say a couple of other things with respect to what is going on here in terms of the budget game that is underway. And I resent it deeply, as a member of the Senate Budget Committee. I have a chart here that shows the buildup in Federal deficits, as we report them now, since 1985 and stretching out to the year 1998. As they have been going up here—it is the red zone that you see here—they have been climbing up through the current year. We see that in 1992, the Federal budget deficit was approximately $300 billion.

But if you see this sort of orange-colored area at the top, this represents additional Government spending all across the spectrum of Government that in fact has been financed by going into the Social Security fund and borrowing the money and taking it out—not to spend on Social Security but to spend on other things. So we are assigning that much money in the balance of the Social Security trust fund to actually finance the rest of Government that has nothing to do with Social Security.

So, in fact the real deficit is not at this level, which is where we say it is; it is up at this higher level, which is about $350 billion.

Why do I take the time to make that point? Because by using the Social Security surpluses, tapping those surpluses to pay for things that have nothing to do with Social Security, we have had the effect of making the deficit seem lower than it really is. So now somebody has figured out if you come in here and you chisel seniors a little bit and you take away the cost-of-living adjustment, you can actually reduce the outlays in that area. You will have even a bigger surplus and therefore you will have, in effect, more budget money to spend somewhere else on other things and that is what is going on here. That is what has been going on for years and that is what is behind the notion of those who argue that the cost-of-living adjustment ought to be reduced or eliminated.

I have not heard the President say that and I do not believe that he feels that way. He is too smart for that and his campaign was not about that. And I expect the cost-of-living adjustment under Social Security will be protected because there will be those of us on this floor who will fight to protect it as we have before over the decade of the 1980's. We had a major fight on this floor in an effort to eliminate the minimum benefit under Social Security. I remember it well because I led the fight against it on this floor and we finally were successful, despite President Reagan's desire to try to do it. What is happening here, in order to forestall a tax increase on high-income people, those people earning over $200,000 a year, there is an effort to try to come in here and effect a false budget saving and false deficit reduction number by chiseling down and squeezing down the cost-of-living adjustment for people on Social Security.

It is not right. It is not justified. And I think if that issue is brought forward by anybody it will be defeated.

Finally, we need an economic growth strategy if we are going to solve this deficit problem. We need 8 million jobs in the private sector of our economy over the next 4 years. That is 2 million jobs a year, 165,000 jobs a month. And we need them now. The economic plan has to be aimed at every single dimension to driving job growth in this country. We see Sears getting rid of 50,000 employees. We see IBM getting rid of employees. There is a story in the Wall Street Journal today: Small business is not hiring employees the way they should. We need a strategy that will drive job growth in this country. Job growth will lift the level of economic activity, the revenues going to families and government, and that is the way to bring the deficit down. There is not any other way to do it for a practical matter.

For the President to have said, as he properly did, that he is going to try to reduce this deficit $145 billion annually over the next 4 years—that is a reasonable goal to strike. But we have to do that with respect to an aggressive job growth strategy, and that means we have to have all the components. We have to be tough on the trade area. We have to change our tax laws to drive private investment that creates jobs. There is a whole list of other things I might mention if there were more time here today. But to take it out of the hides of low-income seniors makes no sense. It is wrong. And it has to be prevented.

I thank the Chair.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Family and Medical Leave Act, S. 5, comes before the Senate, that the period from that time, which is now expected to be at 11 a.m. this morning, until the Senate reconvenes at 2:15 p.m., be for purposes of debate only and that no amendments be in order during that time.

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

Mr. MITCHELL. Mr. President, I state for the record this has previously been cleared with the Republican leader prior to my making the request.

Mr. RIEGLE. Mr. President, I make a point of order a quorum is not present.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Washington is recognized for not to exceed 5 minutes in morning business.

SOCIAL SECURITY

Mr. GORTON. Mr. President, last week reports began to surface that the Clinton administration is considering cuts in Social Security as a way to help reduce the budget deficit. By the end of the week, those reports had been confirmed by several members of the new administration.

This proposal is extremely troubling. It seems to this Senator outrageous that the first thing this administration looks at to solve the budget deficit is Social Security. First, and perhaps foremost, Social Security is not responsible for the deficit. During the current year, the Social Security system will run a $53 billion surplus while the rest of the Federal Government comes up with a $310 billion deficit.

Cutting Social Security is the absolute wrong approach to solving our current deficit problems, and this Senator will oppose any attempts by the new administration to tamper with it. Neither this nor any other administration should balance the budget on the backs of our senior citizens who have paid into the Social Security system for their entire lives.

Social Security recipients have a sacred contract with their Government which I believe should be irrevocable and nonnegotiable. Many of our senior citizens rely on Social Security as their main, if not their sole, means of support. We should not renege on a promise to these people with respect to a program so vital to their lives.

During my first term in this body, Mr. President, I made a mistake similar to the one the Clinton administration is making now. I looked at the numbers and not at the people affected. I learned a valuable but expensive lesson in 1986 when the voters of my State chose not to reelect me. But I learned more than a simple political lesson in that year. I learned the importance of listening. I learned that the concerns of my constituents were my concerns and that I was their voice in Washington, DC. I listened to thousands of Washington seniors from across my State, and I have come to view the Social Security system as more than numbers on a balance sheet. What the people back home taught me was that the Social Security system was different, that it was special and that is was not to be used for anything other than what it was intended for: The retirement of our senior citizens.

When I ran for the Senate again in 1988, I made a solemn vow to the people of Washington State that I would not vote to cut Social Security, and I will not do so now. And the reason I will not do so is that Social Security is unlike any other program in the Federal Government. We have asked our citizens to pay into this program over the course of their working lives. In exchange for that, we have promised them a fair and reliable return on their money.

Our seniors trusted their Government, they invested in the system and now when they have reached retirement age and can no longer work, they have no other option than to rely on the word of their Government. It is a sacred bond in which they have invested their entire lives.

I am afraid that what the Clinton administration sees is a large surplus in the Social Security system and an easy solution to budget woes, but this surplus is there by design. It is being built up to provide for benefits in the future and it should not be tampered with because those benefits will be needed in the future. We cannot allow Social Security to be milked like some cash cow in order to pay for bloated and inefficient Government programs.

There is no question, of course, that budget cuts need to be made and that many of these cuts will be politically unpopular. I understand that, but those cuts will not come from Social Security today, tomorrow or in the future.

Social Security is not just another Government program. It is a contract between our seniors and their Government. It is vital to America's seniors, and I will oppose any and all attempts to cut it.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDENT pro tempore. The Chair, pursuant to the provisions of Public Law 92–484, appoints the Senator from Minnesota [Mr. DURENBERGER] as a member of the Technology Assessment Board, vice the Senator from Alaska [Mr. STEVENS].

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Washington [Mr. GORTON], is recognized for not to exceed 5 minutes.

THE FAST FLUX TEST FACILITY

Mr. GORTON. Mr. President, for a number of years I have worked with the rest of the Washington State congessional delegation and many of my Senate colleagues to preserve the Fast Flux Test Facility, or FFTF, at the Hanford site. I was thus extremely pleased to learn yesterday that Secretary of Energy O'Leary has put on hold the cold standby order for FFTF that was issued by former Secretary Watkins only weeks ago. This decision demonstrates that Secretary O'Leary is keeping an open mind about DOE programs, and gives FFTF employees and the Hanford community hope that their magnificent facility may once be used to its full potential.

The FFTF was originally constructed as part of the U.S. breeder reactor program. It is the Nation's safest and most modern test reactor, and by virtue of its size and design is among the most versatile in the world. FFTF meets all Nuclear Regulatory Commission licensing standards, and is the only DOE reactor to have ever undergone an NRC technical safety review. It has also won both the National Endowment for the Arts' Design Achievement Award and the National Energy Research Organization's Award for research and development achievements. All who have been involved in the FFTF Program have a great deal of which to be proud.

Unfortunately, cancellation of the U.S. Breeder Reactor Program left FFTF without a primary mission. Secretary Watkins therefore announced in 1990 his intention to shut down the reactor, stating that the department could no longer justify the expense of its operation.

Since that time, the Westinghouse Hanford Co.; former Governor Gardner and the Washington congressional delegation have worked together to develop a plan to operate FFTF as a multipurpose, international user facility. Public and private entities with an interest in the reactor's scientific and commercial capabilities were approached, and commitments of financial and in-kind support were secured. This marketing effort has been tremendously successful, as evidenced by the $8 million which the Japanese Science and Technology Agency budgeted for FFTF in its fiscal year 1992 budget, and the 50 million dollars' worth of components and fuel promised by European nations. The marketing team further concluded that "* * * if DOE were to commit to longer term operation of FFTF, over the next 4- to 6-years [the] level of non-DOE funding could be brought up to a level of about half the FFTF operating costs."

To be frank, these considerable commitments were secured with less than the full support of the Department of Energy. DOE set unrealistic and shifting targets for non-Federal participa-

tion, and never put its departmental heart into the marketing effort. As such, the marketing study should not be viewed as an exhaustive review of cost-sharing potential.

DOE nevertheless decided in March 1992 that it would place the reactor in hot standby status, citing failure of the marketing team to secure significant outside financial support. Secretary Watkins did, however, agree to continue to evaluate potential Federal missions for the facility. Congress responded by again appropriating enough money to run the reactor in fiscal year 1993, and by including language in the Energy Policy Act that directs DOE to maintain the reactor's operational status.

Despite this clear signal from Congress, Secretary Watkins announced on January 11 that FFTF would be placed in cold standby. He stated that no Federal mission justified continued operation of the reactor, as the facility could not compete with Russian sources in the production of plutonium 238 for space missions and had insufficient capacity to be used for nuclear weapons destruction.

This announcement was a great disappointment, but no surprise. It has been apparent for some time that Secretary Watkins and certain members of this staff did not share my vision for the future of FFTF, and were unlikely to change their minds. It is for this reason that I and the rest of the Washington delegation asked incoming Secretary O'Leary to place the cold standby order on hold and reexamine the FFTF Program for a broader perspective.

Mr. President, Secretary Watkins was probably correct in stating that no single Federal mission would in the near future justify the continued operation of FFTF. But to view the issue from this angle is to underestimate the reactor's versatility. FFTF is capable of conducting several missions simultaneously or in sequence, allowing significant cost sharing by both Federal and non-Federal users. I am convinced that if pursued vigorously the multimission concept would enable the United States to produce its own plutonium 238 at a competitive cost, as well as perform weapons destruction tests and other Federal missions. I have already noted that the interest and support we can expect from foreign governments and utilities, and am pleased to say that there is strong interest among private firms in producing medical isotopes at FFTF.

Clearly a cooperative use agreement involving so many players will not be arranged overnight. In fact, it will not be arranged at all if the Department of Energy does not commit itself wholeheartedly to the process. But the potential is there, Mr. President, and I am heartened that Secretary O'Leary has taken a step in the right direction by placing the cold standby order on hold.

Mr. President, the FFTF employs nearly 1,000 people at Hanford, and could be the technological cornerstone upon which the Hanford community builds its future as a science and technology center. But I do not support FFTF solely as a jobs project. I truly believe that the reactor, its appurtenant facilities and the people who work there comprise a national asset that is too precious to throw away. I am optimistic that Secretary O'Leary will reach the same conclusion, and will welcome the opportunity to discuss the matter with her.

The PRESIDENT pro tempore. The senior Senator from Nevada [Mr. REID] is recognized for not to exceed 5 minutes.

Mr. REID. Mr. President, I note that there are no other Senators present and wishing to speak. I ask unanimous consent, therefore, that I be allowed to speak for up to 10 minutes.

The PRESIDENT pro tempore. There being no objection, the Senator from Nevada [Mr. REID] will be recognized for not to exceed 10 minutes.

HYDROGEN AS A RENEWABLE, SUSTAINABLE ENERGY SOURCE

Mr. REID. Mr. President, about 3 weeks ago, on a fierce night with raging seas and devastating winds ripping the coastline of Scotland, the oil tanker *Braer* ran around off the coast of the Shetland Islands. The cargo of the *Braer* contained 25 million gallons of crude oil. This, Mr. President, is twice the amount involved in the devastating *Exxon Valdez* spill in 1989, a spill that cost more than $3 billion already, and it is still not complete.

High seas and blustery weather prevented assistance from anyone reaching the *Braer*, and it subsequently broke up, depositing its cargo of crude oil on the Shetlands coastline. The winds and seas churned must of this oil into a fine mist, allowing it to blow over and settle on the rich grazing lands of the Shetland Islands.

The Shetlands, home to some 23,000 people are quickly learning what the legacy of modern technology can mean. With the construction of a large oil terminal in the 1970's in the northern area of the islands, the threat of an oilspill disaster has often been on the minds of the once pastoral-oriented Shetland Island residents. The supreme irony is that the accident did not occur at or as a result of any activity associated with the terminal. It was just a ship passing in the night; a ship that has left a legacy local residents may never recover from.

Mr. President, the Shetlands are home to a bird population of tens of thousands, more than 8,000 seals, and 1,000 otters. And the entire area is an extremely important North Sea fishery. The islands are a major stop for migratory birds and waterfowl, and it is impossible to assess the long-term effects the recent spill will have on the breeding habits of many animal species.

On January 22 of this year, less than 2 weeks ago, a predawn collision of two supertankers occurred from the coast of the Indonesian island of Sumatra. This involved the Danish-owned *Maersk Navigator*, carrying 78 million gallons of crude oil, nearly 8 times the amount of oil involved in the *Exxon Valdez* spill. This was the fourth such spill since December 2 of last year, four spills within a span of approximately 7 weeks. But, Mr. President, this is unique because during a 24-hour period in 1989, three spills occurred within a span of 24 hours.

The history of oilspills throughout the world is a startling account of environmental degradation and economic ruin. And yet I suggest that most of us are not aware of all the spills that have taken place throughout the world and the severity and extent of the damage that has been inflicted on thousands of miles of coastline and countless—I repeat, countless—oceanic resources.

Much of this damage could have been avoided if we had been looking at alternative solutions to our energy problems. This country's policy of pursuing an energy strategy that embraces the importation of oil is flawed for many reasons. Among them is the role that oil plays in balancing our national security interests, which many argue forced us into the Persian Gulf war.

Additionally, the environmental and economic consequences of our addiction to oil are simply too extensive and severe to justify such a policy. But most important, we have the capability of developing the technology to rely on alternate and renewable sources of energy right here in this country, removing the threat of more tragic events such as I have just described.

Golob's Oil Pollution Bulletin, which has kept records since 1976 on oilspills, has a list that they refer to as the top 10 spills. Although it is the Who's Who of oilspill lists, the amount of oil on this list is small compared to a few of those that did not make the top 10. The top 10 spills account for a total of approximately 50 million gallons of oil.

It is interesting to note how that figure compares with 3 spills that did not make the top 10, Mr. President. For example, the 1979 rig blowout in the Gulf of Campeche in Mexico, resulting in a spill of approximately 140 million gallons—remember, the *Exxon Valdez* was 11 million—the 1977 *Amoco Cadiz* spill in Brittany, France, which spilled 68 million gallons; and the champion of them all, Mr. President, the 1991 spill of over 250 million gallons in the Persian Gulf, the result of the work of Saddam Hussein.

Environmental damage is hard to describe as a result of these spills. Shore

birds have died by the tens of thousands; oyster kills; fish species destroyed. The damage to people we cannot calculate—flora, fauna, jobs, scenery.

As an exmaple, the *Valdez* spill, one of the smaller spills, Mr. President, which took place in March 1989, within 3 days, the spill had spread 35 miles, and by the end of the first week it covered 1,000 square miles. By the winter of 1989 and 1990, the spill had caused the death of tens of thousands of sea birds, over 1,000 otters, and over 100 birds of prey.

The nearly 11-million-gallon slick spread over 17,000 square miles of Alaska's coastal ocean and oiled some 1,200 miles of shoreline that included three national parks, three national wildlife refuges, and a national forest; more sea birds and mammals were killed than in any other recorded spill in history; over $100 million has been spent just to study the damage of the *Valdez* spill.

The economic consequences of this spill are staggering. As I have said a total of over $3 billion has been spent in cleanup efforts resulting from this disaster and much more needs to be done. The costs do not consider the external costs relating to litigation, cost of studies, and subsequent legislation.

Ultimately, Mr. President, this country has to ask the question: How much is enough? Is 250 million gallons in the Persian Gulf enough? Is 11 million gallons on the coast of Alaska enough? Do we need more? Do we need more than the spill of the *Amoco Cadiz* or do we need more than the *Boehlen* spill of 1976 and the *Olympic Bravery* spill? And on and on.

When will we say to ourselves that we have been pursuing an energy policy, an energy objective that is beset by hugh financial investment costs and fraught and environmental consequences of staggering proportions? I say now is the time to pursue alternate energy sources of the renewable variety. And today, Mr. President, I want to talk specifically about hydrogen.

Hydrogen is the same source of energy that has taken a man to the Moon and has taken numerous people into outer space. It is available in abundant quantities. Where? It is available right here at home. Should we choose to protect the environment, stabilize our national security, save billions and billions of dollars, and take the lead on research and development in the world energy arena, we can enjoy an energy future that relies on hydrogen, a clean, a renewable source of energy.

I am not the first to speak about hydrogen in the Senate. My colleague, Senator TOM HARKIN of Iowa, has been a champion of alternate sources of energy including hydrogen for a number of years. Well, Senator HARKIN has an ally.

Hydrogen is a clean burning fuel that virtually eliminates any threat from the environment. Hydrogen is the simplest, lightest, and most abundant element in the universe. Because of the incidence with which it occurs and the fact that its source is sustainable, it makes common sense to develop the technology to rely on hydrogen as the major energy source—not an energy source, but the energy source.

Hydrogen can reduce our current energy costs by 50, 60, 70 percent through a number of technical applications and characteristics. First of all it generates no pollution when it burns. So the cost of pollution control equipment is basically eliminated.

Other renewable energy sources, solar, wind, and geothermal, for example, only occur in given times or under certain circumstances, placing some restraint on their availability. Hydrogen is not subject to these restraints. Hydrogen can be produced from any of those naturally occurring energy sources and stored and/or transported as needed making it much more available and a more attractive option. Hydrogen production can be accomplished by different means though the most common methods are reformulation of gasoline, or the electrolysis process, both of which are relatively simple.

In addition, hydrogen exists in paper, human waste, DNA, and virtually anything that exists, and hydrogen can be generated from solar plants, ocean thermal plants or green plants. Hydrogen is already used in a wide range of energy, industrial, and chemical activities throughout the country such as fuel production, plastics, electronics, and fertilizers.

Mr. President, I mentioned all of these massive spills. If in fact one of these ships had been carrying hydrogen fuel, the product that leaked from those vessels would be water vapor. That, in effect, is the pollution from hydrogen—water, water vapor.

Right now there are engineering teams from Germany, Japan, France, Netherlands, Brazil, and even the new Russian Republics, already engaged in research and development of hydrogen as a source of fuel for vehicles and as a major source of energy in broader commercial applications.

Japan and Germany are way ahead of the rest, way ahead of the United States. We must not allow this country, our country, to be forced to buy hydrogen powered vehicles from Japan or Germany because we refused to make the effort to develop our own hydrogen fuel program. The program as it presently exists within the Department of Energy is not adequate either in terms of its composition or in terms of its funding.

We are currently using hydrogen for fuel in NASA space programs. Lockheed has a plane on the drawing board that will burn hydrogen, and prototype hydrogen homes and cars are already available in this country. Hydrogen research has made giant strides in recent years, and the future is bright if we make a further commitment to R&D.

America has taken the lead in the merging technologies, in the fields of energy, communications, or aerospace. There is no reason why cutting edge technology in the renewable energy sector should not be done here in the United State rather than in Germany and Japan, or Brazil.

I was encouraged to note that our new Secretary of Energy, Hazel O'Leary, in response to questions submitted by the Energy and Natural Resources Committee during her confirmation hearings, spoke favorably about hydrogen. She said,

> Hydrogen has great promise as a renewable source of energy for the 21st century. I intend to conduct a thorough review of the Department's research and development portfolio. I expect this review will demonstrate the need for increased research in this area.

I look forward to working with the new Energy Secretary on this issue because program is so underfunded that a program at DOE really does not exist. Four million dollars is what we had last year to study hydrogen. We spend that much in importing oil in a matter of seconds in this country. We sent a man to the Moon with hydrogen fuel. Should we not be able to send American automobiles along our earthly streets and highways with hydrogen fuel? Of course we should.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Mississippi [Mr. COCHRAN] is recognized.

THE SENATE SCHEDULE

Mr. COCHRAN. Mr. President, on the schedule, we are taking up the family and medical leave bill and following that the reauthorization of the National Institutes of Health.

I know there is also a resolution that has been scheduled, or discussed as a possible agenda item, dealing with the deployment of our forces in Somalia.

I do not know when the leader intends to bring that resolution up. But, it occurs to me that the Senate should express to, not only our administration, but to the U.N. leadership, that the United States military forces in Somalia, while they have done an outstanding job, while we support the fact that they have been deployed and commend them for exercising the kind of military control that is required to get food assistance to the people who need it—there must be a time for terminating the unilateral responsibility for this military operation.

It was intended that as soon as the situation was stabilized from a military standpoint that the United Nations would assume the responsibility for keeping the peace, for making sure that foodstuffs were not stolen, that warloads did not intimidate relief

workers, and that those who were suffering were given relief. But this cannot be just a responsibility of the U.S. Marine Corps or U.S. military forces.

I am hoping that the resolution we bring to the floor will contain language which will urge the U.N. Security Council to make a decision to organize an international effort that would do what the U.S. Marine Corps is now doing virtually by itself.

There is a limit to what we should spend in this effort, and I am hoping that the Secretary General of the United Nations, Mr. Boutros Boutros-Ghali, will move quickly to reach an agreement with the U.S. negotiators.

I understand our Secretary of State has met this week in New York with the Secretary General. It seems that they are doing some talking, and they are discussing the options. It is now time to reach an agreement, arrive at a timetable for the orderly withdrawal of U.S. military forces, and a takeover of the responsibility by a U.N. peacekeeping force.

I am sure the United States would support and participate in a multinational force, but time is running out on our willingness to do this job by ourselves.

BUSH RETROSPECTIVE

Mr. COCHRAN. Mr. President, I would like to bring to the attention of the Senate a recent column written by Philip Terzian, associate editor of the Providence, RI, Journal which was printed in the January 27, 1993, editions of the Memphis, TN, Commercial Appeal.

Mr. Terzian made some very thoughtful and well-stated observations about the half-century of public service rendered by former President George Bush, from the time he entered the Armed Forces in 1942 and became the U.S. Navy's youngest aviator until his recent retirement.

President Bush has earned our deepest appreciation and most sincere thanks and congratulations for his distinguished record of service to our country.

The column speaks for many Americans, and I ask that it be printed in the RECORD.

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

[From the Memphis Commercial Appeal, Jan. 27, 1993]

BUSH RETROSPECTIVE

(By Philip Terzian)

When I wrote something about him a few years ago, George Bush was kind enough to send me one of his famous thank-you notes. I was taught not to send thank-you notes for thank-you notes, and so the President's letter was gratefully received but not acknowledged. Now, perhaps, the time has come to do so.

Last week was a week of what must be called Democratic kitsch in Washington: From Maya Angelou's stentorian doggerel to Al and Tipper Gore Boogalooing at the Armory, we were reminded more than once that "the torch has been passed" to a new generation, and that "yesterday's gone," in the words of Fleetwood Mac. Indeed, it is. And George Bush, after a half-century of public service, is back home in Houston, neglected for the moment.

As a member of the generation now coming into its own, I am supposed to be sharing in the pleasure of transition. Yet I am not so sure that the best is yet to come. There is something about the Boomers—the sanctimony, self-regard, pursuit into adulthood of instant gratification—that makes this changing of the guard disconcerting rather than joyful. Zoe Baird, with her seven-figure assets, undocumented servants and disinclination to pay her fair share, seems to symbolize it all. Power is nice, and its exercise is fun; but responsibility is important, and makes the world go 'round.

George Herbert Walker Bush has been much criticized, and vigorously lampooned, for his triple-barreled name, elite education and gentlemanly demeanor. But all Americans are born into some inheritance or another—poverty, wealth, opportunity, squalor—and the point is what we do with it in a democratic society.

For George Bush, at least, the benefit of privilege was paid out in service. At 19 he was the youngest aviator in the Navy: His "political viability" wasn't weighed in the decision. With a Yale degree in hand, he skirted past Wall Street and struck out for the hinterlands. No one who has ever set foot in Midland, Texas, can imagine that comfort was the object: He was, even then, devoted to his neighbors, fair to his competitors, loyal to his allies, doing well by doing good. From Midland to the White House, the pattern would hold.

It is, of course, much too early to say what history will make of the Bush presidency. Journalism, for the moment, is notably uncharitable. Politics is an unforgiving trade, and no one forced George Bush to make it his vocation. But in his last year in office, the extent to which Bush was mistreated by the media, and subject to all manner of invective and abuse, was a needless degradation, and disgraced his tormentors, not the object of their rage.

It is the conventional wisdom that George Bush's strengths were in foreign policy, and that is true enough. In retrospect, he was the ideal president when the Berlin Wall came down, when the Soviet empire vanished, when China shook and stumbled, and democracy, at long last, took root in Latin America. It is difficult to imagine President Dukakis—or President Clinton, for that matter—restoring peace to El Salvador, freedom to Nicaragua, or lancing the boil of Manuel Noriega. Who else might have built the global coalition that drove Hussein from Kuwait, put the United Nations in Cambodia, or brought the Syrians, Israelis and Palestinians together?

The most that Warren Christopher can say, for the moment, is that things will continue exactly as before.

Still, it should be said, that "the vision thing" meant more to Bush than is acknowledged. Few presidents are doctrinaire in practice; most tend to govern through instinct and experience. In Bush's case, his embrace of such measures as school choice, tort reform, environmental "wise use" and legislative limits for abortion-on-demand were the habits of the moderate conservative he is. Unlike his predecessor, he never enjoyed a majority in the Senate, and so his economic measures—to stimulate growth, to activate enterprise, to reduce federal spending—were habitually subverted by the partisan Left. And the recovery he predicted, it would seem, is now upon us.

If the end of the Bush presidency was the end of an era, it's an era for which we have much to be grateful. George Bush was a politician of loyalty and honor, an aristocrat in office, a leader whose awkward gallantry matched the moment. His dignity and grace were models of comportment—not least as he handed the reigns to his successor.

He has earned the restless leisure he will now enjoy, and may take some satisfaction in posterity's judgment. That is probably more than he thinks he deserves, but his country did well by Bush's devotion—and the thanks offered here will scarcely suffice.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. I thank the Chair.

(The remarks of Mr. COCHRAN pertaining to the introduction of S. 267 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COCHRAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WOFFORD). Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the time for morning business be extended by 5 minutes and that I be permitted to speak therein.

The PRESIDING OFFICER. Without objection it is so ordered.

FOCUSING ON THE ECONOMY

Mr. LIEBERMAN. Mr. President, I rise today to express my own satisfaction and pleasure at the indications that President Clinton and his administrative team are focusing, as he promised, like a laser beam on our economy, on an economic stimulus package, and to express my particular hope that that package targets its aid to some of the regions of our Nation that are still in the deepest throes of the recession, including my own State of Connecticut; and that part of the package, the economic stimulus package be targeted with tax cuts that will give immediate incentives to the business community, particularly the manufacturing sector, to create the jobs that our people so desperately need.

Mr. President, in his recent testimony before the Senate Budget Committee, Federal Reserve Board Chairman Alan Greenspan had some pretty upbeat remarks about our Nation's economy. And overall, the data gives

some basis for that optimistic view. But you have to look under the national data to appreciate the reality that we have now, a string of regional economies; and that some of those regions such as my own, New England, are still really hurting, no matter what the economic data say. The unemployment rate in Connecticut at the end of 1992, once among the lowest in the Nation, was 7.4 percent, now higher than the national average, and that figure does not count the terribly damaging layoffs that were announced by major industries in our State during the last month.

Altogether, Connecticut has lost more than 200,000 jobs since this recession began in February 1989. That is more than 12 percent of our work force. Mr. President, we unfortunately understand that a lot of those jobs are never going to come back.

Natural unemployment growth may have been on the rise, but you could not prove it in Connecticut. The layoffs at Pratt & Whitney and Hamilton Standard announced last week, over 7,000 jobs statewide, are having a devastating effect on the State's economy and psychology. What makes the cutbacks even more serious is that the job losses are in manufacturing, which is the sector that has been particularly hard hit over the last decade and the service sector is simply not poised to pick up the slack, certainly not with jobs that pay comparable salaries.

So we clearly need an economic stimulus program. I know there is an academic debate, indeed here in the Halls of Congress, about whether we ought to put deficit reduction first and forget the economic stimulus program.

Mr. President, I think if you look at the facts in Connecticut and so many other States and regions of our country, it is clear that while we have to do something about the deficit—and we should over the longer term—our No. 1 priority must be to get this economy moving again and to create new jobs for our people and protect the old jobs that people have.

A two-track economic program—a combination of targeted spending public works programs and tax cuts to spur investment in business activity is what is needed. I can tell you that in my own State the State department of transportation is ready to take high-quality, high-return projects off the shelf and get them moving out into the economy right away, as soon as we appropriate some funding. I think we also need, as part of our economic recovery program, to take a specific look at the aerospace and defense industries.

Last week, the Connecticut congressional delegation—my senior colleague who is on the floor now, Senator DODD, Members of Congress, and I—met with some of the representatives of the unions that work in aerospace. We understand that part of the reason for those layoffs in aerospace has to do not just with defense cutbacks, but with the overall economic recession and particularly with the decline in the American airline industry.

It is time that we convened a commission on an emergency basis to look at the American airline industries to see what we can do to rescue and protect our economy and our jobs and that we ought to specifically look at targeting emergency assistance to workers that are laid off as part of the recession that we are going through.

One way, I think, to do this would be to revive programs already in existence at the Economic Development Administration that are designed to help regions that have suffered an economic disaster.

Mr. President, if a natural disaster hits a State, FEMA steps right in. I think we have to be prepared to respond as rapidly when an economic disaster hits a State like the recent layoffs at Pratt & Whitney in Connecticut.

Finally, on the tax side, we have heard a lot of talk lately about economic stimulus, about deficit reduction. I think it is very important to remember that probably the most cost-effective way we can get this economy moving again is by giving tax incentives to the private sector, to business, to invest and create new jobs. We multiply our investment in tax incentives and raise Federal tax revenue by the private investment in job creation that that causes.

Mr. President, I am confident that President Clinton and his economic team are going to continue to focus on these problems and produce a program that will get America moving again when he addresses this Congress on February 17.

I ask this morning, finally, that they pay particular attention, when developing this economic stimulus package, to those sections of the country like New England and Connecticut that still are in the depths of the recession, and that they look closely also, and be sure to utilize to the fullest extent, at tax incentives to business to create growth and jobs.

Mr. President, in New England and Connecticut, we have suffered most from the recession. I hope the President's program will help us most to benefit from the antirecession and long-term growth problems and bring us back to where we were at an earlier, happy, more secure time of our economic history.

I thank the Chair and I yield the floor.

TRIBUTE TO DOUGLAS C. YEARLEY

Mr. DECONCINI. Mr. President, it is with great pleasure that I rise today to congratulate a man whose accomplishments in the copper industry have earned him the industry's highest honor. On February 18, Douglas C. Yearley will receive the Copper Club's Ankh Award as the 1993 Copper Man of the Year.

Doug is the chairman, president, and chief executive officer of the Phelps Dodge Corp., a leader in the copper industry. The State of Arizona is proud to be the home of Phelps Dodge. In 1984, Doug was one of five senior executives who developed a business plan that brought Phelps Dodge from the brink of bankruptcy to become one of the world's largest copper producers. Since then, he has transformed the company, expanding the scope of the company to the international arena. Phelps Dodge now employs more than 14,000 workers in 24 countries. Doug's personal efforts have bolstered the economy of Arizona and the Nation.

Doug has also founded and led several organizations to increase demand for copper products both at home and abroad. He has spearheaded efforts to educate the international community on the many uses of copper. As chairman of both the International Copper Association and the Copper Development Association, he continues to push for the development of new copper products, using this vital element to increase the quality of life everywhere.

Perhaps the most important achievements of Doug's distinguished career have been his efforts on behalf of the International Council of Metals and the Environment. Doug sits on the board of directors of the council, working to insure that increased demand for copper products does not come at the expense of our planet. Phelps Dodge is a founding member of the council, and Doug's efforts have placed the company at the forefront of the copper industry in the area of environmental protection.

Mr. President, the Ankh Award honors all this and more. Doug Yearley personifies the qualities that make our Nation great. His determination, commitment, and sheer hard work stand as testimony against those who would say that we are no longer capable of being a world industrial leader. I have known and worked with Doug for many years, and I know of no other person who is more deserving of the title "Copper Man of the Year." I am honored to ask my colleagues to join me in congratulating Doug on this award.

THE RELEASE OF FOUR INDIVIDUALS IN CHINA

Mr. BOREN. Mr. President, I would like to speak briefly on a news item which appeared on January 30. I was pleased to learn that the Chinese Government has decided to release on parole two prominent political dissidents, Wang Xizhe and Gao Shan. The Chinese Government has also granted passports

to two other individuals, Li Jinjin and Zhang Weiguo.

I particularly welcome this news because three of these four individuals—Gao, Li, and Zhang—were listed in a letter which my good friends Senators PELL and LEVIN and I presented to the Chinese Foreign Minister and Minister of Public Security when we were in Beijing last December.

For the record, Mr. President, I would like to say a few words about each of these individuals.

Wang Xizhe was arrested in 1979 in connection with the Democracy Wall movement, in which he hung a wallposter in Guangzhou on "Democracy and the Legal System." Subsequently, he edited a prodemocracy forum entitled "April 5 Forum." He was sentenced in 1982 to 14 years imprisonment.

Gao Shan was detained in June 1989 for having convoked a meeting of students to contest the imposition of martial law in Beijing. At the time, he was a deputy director of the Institute for Reform of the Political System.

Zhang Weiguo was on the list of blocked passport cases submitted to the Chinese by then-Secretary of State James Baker in November 1991.

Li Jinjin, a doctoral student in constitutional law at Beijing University, was a legal consultant to the Beijing Workers Autonomous Federation during the spring 1989. He was arrested in Wuhan in June 1989.

Hopefully, Mr. President, these actions are preliminary steps which foreshadow a broader effort by the Chinese Government to improve relations between China and the United States.

HUD SECRETARY HENRY CISNEROS

Mr. SIMPSON. Mr. President, I applaud President Clinton for selecting Henry Cisneros to be Secretary of Housing and Urban Development. Truly, no appointment is more critical to the future of our Nation's inner cities than this one.

I met Henry Cisneros many years ago when I was working to craft an illegal immigration bill. He was a fine leader of a major American city that had reconciled many deep problems with regard to illegal immigration. I chaired several panels and seminars with him. He is a very impressive gentleman.

The challenges of urban decay, poverty, and homelessness are daunting, indeed. But thanks to the remarkable progress that has been made by Jack Kemp in the past 4 years, Cisneros is inheriting a revitalized and rejuvenated Department of Housing and Urban Development, and he can begin on day one to address these problems with strong leadership and bold actions.

I am pleased to support a nominee who has demonstrated—as mayor of San Antonio and in every other aspect of his life—such a strong and total commitment to empowering the poor and making a difference in our inner cities. Henry Cisneros is uniquely qualified to take on this post. His energy, zeal, enthusiasm, sensitivity, and creativity will serve him well. I have every confidence that Secretary Cisneros will be a bright star in the Clinton administration and I shall look forward to working with him.

SUSTAINABILITY IN MAINE

Mr. MITCHELL. Mr. President, recently, Maine Audubon Society published a series of articles on sustainable development in Maine. The Maine Audubon Society selected a group of enterprises to demonstrate the variety of sustainable options available in Maine.

In the society's journal entitled "Habitat," there are brief articles on moulded fibre technology, sustainable architecture, energy conservation, and others. This is an interesting portfolio of options that may be of interest to others. I recommend the articles and hope that more options will be developed to create a sustainable future.

I ask unanimous consent that this series of profiles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Habitat, October 1992]

DOING BUSINESS BY EXAMPLE

(By Michele Charon)

It had all the makings of a riveting disaster scene from an environmental docudrama. A vast pool of toxic industrial solvents had collected in the groundwater near a missile manufacturing plant and was headed straight for the drinking-water supply of a large California city. A state legislator and his young chief of staff began investigating, tentatively at first, by asking innocent questions about dumping practices, water-testing requirements, and the geological character of the region. Then, as they realized the magnitude of the problem, the two public-policy makers championed the nation's first law to require testing of drinking water for a range of toxic chemicals. It not only helped avert a calamity in their own area, it alerted public officials of similar potential crises all over the state.

The legislative aide was Peter Troast, and he recalls the experience as a high point in his career of environmental activism, one that solidified his commitment to working to protect the environment. It also planted an idea that would eventually blossom into a new career. "The environmental testing industry that sprung up after the passage of that law got me thinking that I could do well in business and do something good for the environment too."

What Troast did, along with partners Roger Baker and David Friedman, was to start Moulded Fibre Technology, a Westbrook firm that produces a recyclable alternative to protective polystyrene packaging. According to Joseph Grygny, a Milwaukee-based packaging consultant and regional vice president of the Institute of Packaging Professionals, it is a product that could have an enormous impact on the packaging industry. "They took some very enterprising steps in establishing this business and were very innovative in their approach," says Grygny. "They saw a definite market for environmentally proper, molded-pulp packaging products for medium-sized orders. . . they were filling a niche that was vacant."

Moulded Fibre Technology produces "interior packaging" that is used to cushion delicate products such as stereo and computer components, cosmetics, cameras, and toys for shipping. Unlike the shiny, white, bulky polystyrene packaging that's usually used for such purposes, the Moulded Fibre product is grayish with the cardboardlike texture of an egg carton and is far more compact. Also unlike polystyrene, which is a petroleum-based plastic material that is very difficult to recycle, the Moulded Fibre packaging material is easily recycled since it's made from a mixture of ground-up newspapers and water. It is produced with a "clean" production process in which the mixture is molded to very precise specifications then vacuum dried.

"No one had ever really thought of the idea of using molded fibers as a cushion packaging material," says Troast, who has gotten his packaging-industry education on the job in the eighteen months since he cofounded the company. "At this point we're the only player in the field in this country."

Troast has shaped much of his adult life around an interest in and concern for the environment. As a student at St. Lawrence University he became involved in the battle over Hydro-Quebec's proposed powerline route across the upstate New York landscape. Although the effort was ultimately unsuccessful, it did fuel Troast's zeal to be involved in environmental protection.

During Troast's sophomore year he landed an internship with Friends of the Earth in Washington, D.C., and helped lobby on national forest wilderness issues. "It was heady work, and I can say there are a couple of wilderness areas out there that I had a hand in making happen," says Troast.

After a year and a half in Washington, Troast transferred to the University of California at Berkeley, where he studied the political economics of natural resources. After completing his degree, he worked as campaign manager for a California legislative candidate named Lloyd Connelly, a politician with a strong environmental record. When Connelly won the election, he hired Troast as his chief of staff, a position Troast held for almost six years. During that time he was thrust into the thick of heated environmental conflicts over such issues as control of toxic waste dumping and prevention of pesticide contamination. Finally burned out with legislative politics, Troast accepted an offer to come to Maine in the fall of 1987 to manage the Land for Maine's Future Bond Act.

Troast's stay in Maine extended beyond that fall, however, partly due to a meeting with David Friedman of the Sandy River Group, a health-care and environmental business development company in Portland. Friedman was impressed with Troast. "He had very little business experience, but he had a tremendous drive for learning and to contribute to something," said Friedman. "His commitment to the environment is part of his fiber."

After considering more than 140 other business proposals on everything from tire recy-

cling to fish waste composting, Troast and Friedman decided to launch Moulded Fibre Technology. Since last April, the company has been producing packaging materials for several companies, including the American branch of Honda, Harlequin Books, Milton Bradley, Benetton Cosmetics, and Shiva Corp., a producer of computer equipment.

The performance of the Moulded Fibre product has not been tested as thoroughly as that of polystyrene, because the molded pulp technology is so new. But the product has performed as well as plastic foams in United Parcel Service drop tests, and according to Joseph Grygny, another test indicated that the recyclable packaging can be more effective than plastics for damping vibration.

In the United States molded pulp currently is used to manufacture two types of products: precision molders use the newspaper-and-water mixture to create such objects as egg cartons and fruit trays, and "slush" molders use the same material to make imprecise products such as nursery pots or furniture pads. Moulded Fibre is unique in the field because it employs a sophisticated, computer-based design process to create molds that shape the material to the precise contours of various products, from lightbulbs to computer modems. Once the mold has been created and checked, the wet mixture of ground newspaper is vacuumed onto the mold. To solidify this liquid material in the desired shape, the water is then vacuumed off and the product is dropped onto a conveyor belt and run through a heater.

Moulded Fibre has grown from eight employees to its current 32, which is one measure of its early success, says Troast. The company's dual emphasis on profitability and environmental protection earned it a visit from Democratic vice-presidential candidate Al Gore in early August. Troast hoped the high-profile visit would further his aim to bring environmental values into the business world.

"The thing I feel somewhat missionary about is the notion that business can be a force for social change," says Troast, "In part I think Moulded Fibre Technology is an example that it is possible to be profitable, create economic growth and jobs, and at the same time be environmentally clean."

Troast has been active in Maine politics, serving as president of the Campaign for Sensible Transportation, the citizens group that successfully challenged the plan to widen the Maine Turnpike, and working on Tom Andrews Congressional campaign. He hasn't ruled out a run for public office himself, though not in the foreseeable future. For now Troast says he wants to focus on making his company an example of environmentally responsible economic growth.

"To bring about the kind of change that I think is necessary, it's going to take more than Moulded Fibre Technology," he says. "It's going to take companies and individuals all over the place that are willing to innovate and to see that there is great value and potential profit in seeking out products that are solutions to environmental problems."

ALL BETS ON CLEAN WATER

(By Melissa Waterman)

Outwardly, at least, there isn't much to suggest that anything particularly noteworthy occurs at the end of this narrow dirt road in Walpole: a large Quonset-shaped building with a plexiglass roof resembling the overturned hull of a very sheer dory, some piles of old fishing gear and shellfish trays, a few trucks, and a thin wooden dock on the Damariscotta River. In fact, however, as Mook Sea Farms this is the birthplace of hundreds of millions of shellfish that now grow on both the Atlantic and Pacific coasts.

From this inconspicuous site Bill Mook pursues his living. Sitting in his small office beside a Rolodex almost the diameter of a basketball, Mook talks about the growth of his business and the potential for sustainable aquaculture development in Maine. "We started in 1985 with a half-acre lease on the river and a little equipment," he says, his eyebrows moving rapidly up and down, animating his speech. "And in the first year we raised 40 million animals and made a profit with just two people."

Mook makes his accomplishment sound matter of fact, but he is actually an example of a new breed of marine entrepreneur who combines a fisherman's traditional dedication to individualism with a high level of education. A 1975 graduate of Wesleyan University with a degree in earth sciences, he went to graduate school at the University of Maine's Darling Center for a Master's degree in marine sciences. At the time the Darling Center was conducting innovative research on shellfish aquaculture techniques, an emphasis that has spawned a number of businesses operated by former students such as Mook. After graduating, Mook managed a now-defunct shellfish hatchery in Round Pond for several years before purchasing his own site.

The Quonset-like building is actually a 6,000-square-foot hatchery that Mook designed. Here Mook and his four full-time and three part-time employees raise brood stock of six shellfish species—American and European oysters, quahog, soft-shell and surf clams, and bay scallops. The building hums with the gurgle of moving water passing through a maze of pipes connecting the tanks of various shellfish. Bubbling cylinders of cultivated algae in graduated hues of sea green provide for food for this stock, whose spawn are incubated in warmed seawater from the river. The juvenile animals are then set out in screened tanks with constantly circulating seawater. When the shellfish reach one to three millimeters in size they are set out in nurseries before being sold to private growers and municipalities throughout the U.S. The hatchery now produces as many as 120 or 130 million animals in a six-month period.

Mook maintains that the key to long-term success in aquaculture is diversity. Besides cultivating six species, he deliberately promotes genetic variability within a generation and uses three different nursery sites to grow out the juveniles. Although he primarily sells seed stock to private growers and municipalities, he is also expanding his operations to include growing market-sized surf clams and oysters for sale to wholesalers. By staying relatively small and diversifying his activities, Mook believes he is better able to deal with the problems that are inevitable in this still-young industry.

Working in Mook's favor is the rising demand for seafood, a trend that shows no sign of ebbing. In the past decade U.S. per capita consumption of seafood increased nearly 25 percent, to approximately 15 pounds annually. Aquaculture accounted for 11 percent of the edible fish and shellfish harvested in the country, and worldwide the United Nations predicts that aquaculture will provide 25 percent of the world's total fisheries landings by the year 2000.

Although aquaculture got its start in Maine over a century ago with the establishment of private freshwater trout operations to stock public waters, marine aquaculture is a relative newcomer to the state's fishing industry. In the early 1970s a few small businesses began to grow oysters, mussels, and salmon. An abundance of venture capital in the 1980s helped the industry boom, particularly for salmon, but even in these recessionary times aquaculture continues to be a growth industry in Maine. In fact, with its extensive coastal habitat, high tides that circulate large volumes of water, and proximity to major metropolitan markets, Maine is well positioned to become a major aquaculture center.

Unlike capital-intensive and driven finfish operations, shellfish aquaculture businesses tend to be small, individually operated ventures. The shellfish sector of the industry in Maine currently consists of 22 active leases encompassing 416 acres of submerged land. Valued at $175 million, the industry brings in an additional $5 million in economic benefits to the state each year. But, says Michael Hastings, director of the Aquaculture Innovation Center (an office created by the Maine Aquaculture Association and the University of Maine to help facilitate the industry's development) public aquaculture of soft-shell clams could significantly increase this total. One hundred acres of submerged lands seeded with soft-shell clams can produce a harvest worth $22 million. "The demand for soft-shell clams is very constant and very solid, but the supply has been declining as productive beds have been closed to harvesting due to pollution." Sewage overflows, malfunctioning septic systems, and runoff all contribute to the high levels of bacteria that filter-feeding shellfish absorb.

Declining water quality along the coast is a particular concern to Mook and others in the industry. Given public wariness of contaminated shellfish, Maine's reputation for clean water is invaluable as a marketing tool for shellfish aquaculturists. "But how much sewage can these thin rocky soils filter?" wonders Mook. "At the local level people need to identify and think about those characteristics of the environment they value and then act to protect them."

Mook points to the Damariscotta River Tidewater Watch, a citizens' group he is involved with that monitors the water quality of the river, as an encouraging example of how people are beginning to take responsibility for the natural assets they hold in common. "We can't assume the state or federal government is protecting the environment. It's all of us who have to be responsible. This river is still clean," he says, gesturing toward the Damariscotta. "Our challenge is to make sure it stays clean." Bill Mook has several hundred million shellfish wagered that it will.

HOW GREEN IS THE AMERICAN DREAM?

(By Edgar Allen Beem)

Steven Moore is concerned. One of Maine's most verbal and visible architects, he has watched as the downturn in the economy has devastated the ranks of the state's architectural community. Taking advantage of the economic slowdown, however, Moore spent part of 1990 and 1991 as a Loeb Fellow at Harvard University's graduate school of design rethinking the theory and practice of architecture.

"On the one hand," says Moore, "I was frustrated with the agenda of [architects'] traditional client base. On the other, I had a growing fascination with how architects can be more operative in solving environmental problems."

One of the key questions Moore asked himself was, "What does it mean to design an en-

vironmentally responsible building?" And like a growing number of architects and builders, Moore found himself looking for ways to apply the principle of sustainability—long applied to energy use and agriculture, mariculture, and silviculture—to the design and construction of housing. Out of this inquiry came much of the thinking embodied in "The Complete House," a CD-ROM program Moore is publishing this fall with Deep River Publications of Portland.

"The Complete House" is a computer guide to the design and construction of a single-family house. And although it does not dictate any particular form or style of building, it does articulate some of the basic principles of sustainable housing. "Build for reuse," says Moore. "The notion of planned obsolescence is a myth. You build better if you build for greater permanence."

Sustainable architecture also means conserving material resources, avoiding the use of scarce materials such as exotic hardwoods, using recycled materials, and requiring contractors to recycle construction and demolition debris. An emphasis on renovation and repair over new construction is also a central tenet of green design.

Ecologically sensitive design aims for material efficiency. And this entails everything from the good old Yankee thrift of not wasting anything (building on four-foot modules, for example, to take full advantage of the standard size of building materials) to preferring locally produced materials that save the energy consumed in transport and shipment.

Naturally, the environmentally responsible home seeks energy efficiency itself. This means not only installing efficient heating and lighting systems, it also means avoiding the use of such energy-intensive building materials as aluminum and plywood. Sustainable housing is also healthy housing. A growing body of research suggests that responsible architects and builders should specify nontoxic paints, stains, sealants, and adhesives.

While Moore does not believe this partial list of environmental design principles prescribes any one type of house, he does find in it an affirmation of traditional regional design. "Regionalism," says Moore, "is always environmentally based if it is practiced not at the superficial level of style-making but at the level of making forms."

The segmented but connected house-barn design of traditional New England farmhouses is, for example, an environmentally appropriate way to build. And the climate and geography of the Northeast would also suggest the south-facing, pitched roof wooden homes that are so prevalent in Maine. Ironically, however, Moore does not believe that the wood-heated, passive solar, shed roof houses that were so popular during the 1970s are good models of sustainable housing. Moore believes the green housing of the future must be more densely clustered, leaving more open land, cutting down on travel, and promoting opportunities for citizens to share facilities. From this perspective, living in a duplex in the city where you share a wall for warmth with a neighbor and where you can walk to work and school is far more environmentally defensible than living on 20 acres 20 miles out in the countryside. "Urbanism is profoundly more ecologically sound than everyone living in their pastoral bliss," insists Moore. "You should go to the wilderness and enjoy it rather than consume it. That is the issue."

Still, Maine is a profoundly rural state and when he went searching for examples of successful design for "The Complete House," Moore, whose own work consists mostly of public buildings (among them Augusta's city hall, Lewiston's police department, and the Doris Twitchell Allen residential complex at the University of Maine), found himself repeatedly citing the little country home of Lincolnville architect John Silverio.

John Silverio, who does business as Chimney House Design, is a proponent of hearth-centered homes and country living. His own house is a small wooden cottage inspired, like many of his designs, by the hand-crafted architecture of Norwegian stave churches and Russian log churches. Since the house was built in 1972, Silverio has added to the property a barn, a studio, and a lovely little building to house his wife's Waldorf nursery school. Enlivened by birds and beasts and children, this landscape of collages, gardens, woods, and ponds is as harmonious a human habitat as one is likely to find in Maine.

Jack Silverio says he understands that his vision of the good life would not be sustainable if vast numbers of people aspired to it, but he believes it is appropriate for those willing to work to achieve it precisely because it is not for everyone. And he is particularly insistent about the environmental value of wood heat.

"I think wood heat is viable, healthy, and sustainable," says Silverio. "It used to be that people would use 15 cords a year and have smoke belching out in clouds, but now we can heat a house on a cord and half in very clean-burning furnaces.

Energy efficiency is fundamental to sustainable design, and one way to reduce the amount energy you consume is to reduce the amount of space you heat. Jack Silverio subscribes to the "Small is Beautiful" philosophy, his own house enclosing just 1000 square feet.

Beyond matters of simple utility, however, Silverio's templelike Lincolnville cottage also embodies the spiritual elements he espouses in a little self-published book entitled *Radiance Indwelling*, and in its use of all natural materials, it satisfies many of the criteria of the healthy home articulated by the German "baubiology" (architectural biology) movement. Silverio thinks of his home as a nest rather than a castle and he believes the American dream of owning bigger and bigger homes is untenable.

"One of the things that destroys the whole image of what housing should be," says Silverio, "is the speculative real estate market that treats land as a commodity and people as transients." Silverio sees the sustainable housing of the future in terms of co-housing, a Danish model based on notions of community rather than private property. Co-housing involves groups of people acquiring land in common and together planning its best, shared use. A typical co-housing development consists of small single family houses with some shared playspaces, workrooms guestrooms, utilities, gardens, and parking. There are currently co-housing projects in the planning stages in Portland and Brunswick.

The goal of sustainable housing is shared by many, but as yet there is no clear consensus about what sustainable housing is or ought to be. Jack Silverio, however, is a member of a design consciousness-raising group actively exploring the issues and alternatives. Builders and Architects for Sustainable Environments (BASE), a Maine group founded in August 1991 and inspired by the pioneering environmental work of the Boston-based Architects for Social Responsibility, meets monthly at the University of Maine in Augusta to discuss issues and exchange information and ideas. As yet, however, BASE is not ready to become a public advocacy group. "We are mainly trying to educate ourselves rather than be experts to educate the public," explains Camden architect Sarah Jones Holland.

For Holland, sustainable housing means minimizing environmental impact, promoting human health, encouraging spiritual balance, and designing in ways that build a sense of community. Achieving these desirable ends may very well require architects and builders to challenge the established social order in profound ways. "How many empty office buildings are there in Boston while people live in cardboard boxes. I think that's outrageous," says Holland, indicating just one area of potential conflict and controversy.

Both Jack Silverio and Sarah Holland believe we can no longer afford—not just economically, but environmentally and socially—to design, construct, light, and heat big office buildings that stand empty half the time. Sustainable architecture, then, might mean both making better use of existing buildings and not building buildings we don't really need. With all of the revolutionary advances in communications, for example, more and more people should find themselves able to work at home.

In Vacationland Maine, builders and architects concerned about sustainable environments may eventually have to face the question of whether second homes (which make up a significant portion of the residential architecture market) are socially and environmentally defensible. And the big unasked question in Steven Moore's "The Complete House" is, as Moore himself points out, "Should we be building single-family houses at all?"

To think that American consumers will ever abandon the dream of owning a home of one's own is as utopian as believing that they will ever willingly abandon the automobile. Steve Moore knows this, but he also knows that you don't bring about change without first questioning the status quo. "If we are going to [build single-family homes]," concludes Moore, "we have to learn how to do it without depleting the resources of the environment."

DOING MORE WITH LESS

(By John Lovell)

The idea that came to Angus King one day in 1984 was a flash of light that surely would have made Ben Franklin smile: wouldn't a kilowatt hour saved be worth as much as a kilowatt hour generated? It was a concept so basic that no one had given it a second thought—or at least not enough to pursue it. But to his benefit—and ours—King did.

A part-time television news-commentary host and nonpracticing lawyer, King was working for Swift River/Hafslund, a company that specialized in building wood-fired power generating plants and refurbishing old hydropower facilities. In the 1980s, when electric utilities were faced with the high cost and uncertain supplies of fuel oil, this was an important and profitable business to be in.

The business had been made possible by the Public Regulator Policy Act (PURPA), a law enacted by Congress in 1978 that contained an initially little notice provision requiring electric utilities to buy power from any renewable energy source at the utilities' "avoided cost"—the incremental cost of producing additional power. The idea was to help the country move away from reliance on expensive imported oil by encouraging

the development or redevelopment of small hydroelectric dams and other generating plants driven by renewable domestic resources.

The amount of avoided cost per kilowatt hour determined whether developing a given alternative energy project would be viable. King recalls that at least nine cents a kilowatt hour were required to undertake a hydro project, at least seven cents for a biomass-fired project, and at least five cents for a gas turbine project. For Central Maine Power, avoided cost was effectively determined by the price of a barrel of oil, and for a time that meant between 10 and 15 cents a kilowatt hour—among the highest in the country. To build or refurbish a generating plant a developer also needed a stable, nonnegotiable, long-term contract for the power produced. Because CMP is legally required to maintain ample electricity, it entered into long-term contracts at its early and mid-1980s avoided cost levels (a factor in the company's current high electric rates).

Defying expectations, however, oil prices declined through the 1980s, and as they did, so did CMP's avoided cost. By 1987 CMP's avoided cost was about 5.5 cents a kilowatt hour and falling. Suddenly, the prospects for new alternative energy projects seemed dim. What technology could generate power for CMP at four cents per kilowatt hour and still turn a profit? To King, the only answer was conservation.

King recalls that in 1984 he had been reading about the hearings on Great Northern Paper Company's proposal to build the "Big A" dam on the Penobscot River. During those hearings energy expert Amory Lovins had testified on behalf of the Maine Audubon Society that the paper company could save more electricity in its Millinocket mill than the proposed dam would generate and at a cheaper cost per kilowatt hour. "Changing light fixtures, upgrading motors and pumps . . . the idea stuck in my mind," says King. "It suddenly occurred to me that if I could save a kilowatt somewhere for CMP that they could then turn around and sell to somebody else, then the kilowatt saved should have the same value to them as a kilowatt that I generated."

King proposed the idea to his coworkers at Swift River, who "looked at me like I was absolutely crazy." But when CMP issued a request for proposals for more power generation, King sent them a proposal. The company was intrigued enough to pass the proposal along to the Public Utilities Commission, which liked it enough to issue a set of regulations under which King's idea could be fully developed. Eventually Swift River got a contract to go ahead with the plan, but in the time it took for this to occur the company decided not to pursue the idea.

So King went out on his own and started up his own company. In the beginning the idea seemed almost too clever to work. "It made sense on paper, but no one had ever done it before," he says. But he literally gambled the homestead on the idea, taking out a second and third mortgage on his house to keep his company afloat. The first few years, he admits, were "terrifying," but he had what he calls "a series of lucky breaks. I'm a great believer in luck and that you have to be prepared to take advantage of it. Fortune favors the well-prepared."

While many other new businesses in Maine struggled to stay afloat in the deepening recession, King found that his enterprise thrived in it. The recession, he says, "made many of our customers much more sensitive to costs than they were before. To maintain your profit when sales go flat, you've got to start thinking about your costs. Electricity is certainly a cost in just about everybody's business."

With three employees, several computers, and a pool of consulting engineers to draw from when he needs them, King's Northeast Energy Management Inc. occupies the first-floor suite of offices in a renovated house on the Brunswick Mall. Two big shelves of a hallway bookcase hold the heart of his enterprise: big, black looseleaf notebooks containing the computer spreadsheet details of saved kilowatt hours for about forty energy efficiency projects undertaken since King landed his contract with CMP in 1989.

Each project that Northeast Energy Management Inc. completes means a little less electricity that CMP has to generate, and a little more electricity available for CMP to sell to its other customers. It means a little less consumption, a little less waste, a little less pollution, a little more efficiency.

"We've now done enough projects so that the amount of electricity we're saving is about the same as the entire residential electrical usage of the city of Waterville," King calculates. "A lot of what we're doing is turning off things that used to be on all the time. Our business is efficiency, a metaphor for the nineties: Doing more with less."

Sixty percent of the company's projects involve replacing light fixtures with more efficient types that typically cut energy consumption almost in half. The more the lights are on, the greater the savings for King's customer and the greater the profit for King. "Our best customer is a chain of convenience stores that don't even have light switches," he says. "Their lights are on 24 hours a day."

Before King gets paid, he must meticulously document the energy savings he creates. Each project is preceded by a detailed engineering description for CMP setting forth exactly what Northeast Energy Management Inc. proposed to do, what the anticipated energy savings will be, and how that savings will be monitored over time. "We agreed with CMP at the beginning that if we were going to do this, we were going to have to prove to the doubters that the savings were really there."

First electricians go through a client's building with meters to measure the wattage used by each light fixture. After installing the energy-efficient fixtures, they tabulate the wattage again. Both times, the readings are averaged to provide wattage differentials per fixture and then multiplied by the number of fixtures to provide wattage savings. "The key thing is the number of hours of wattage," King continues. "We install little wristwatch-sized run-hour meters in sample circuits. Whenever the lights are on, those little meters are rolling. Let's say we have a building with ten fixtures and we're saving fifty watts in each of them. That's five hundred watts. We multiply that by the number of hours the lights are on, read from the run-hour meters, divide the result by a thousand, and that gives us the kilowatt hours of electricity saved."

Everyone benefits. CMP gets extra electricity to sell, King gets money from CMP for providing it, and King's clients get lower electricity bills. But why would King's clients need his service? Why don't they just install the more efficient light fixtures themselves?

The answer, King was surprised (and thankful) to discover, is that most businesses are not interested in long-term savings. "Almost any facility has significant energy savings to be had, but rarely is there anybody in the organization whose job it is to think about it. A store might have a facilities manager, but his job is to keep the place clean, worry about the leaky roof, stuff like that. But what surprised us was that most American businesses are not interested in any capital investment that has a payback of longer than about two or two and a half years," King says.

So King speeds up the payback to make savings more attractive. Using an unnamed "large store" as an example, King explains: "Say it costs $100,000 to redo all their light fixtures. We would calculate at the outset how much that would save: say 500,000 kilowatt hours a year. They're paying CMP ten cents a kilowatt hour, so it's going to save them $50,000 in the first year. We offer to pay the store 60 percent of the $100,000 cost of replacing the light fixtures. In the first ten months, the store gets its $40,000 back, because that's what they've saved on their electric bill. And every month thereafter they're still saving. We get a payment from CMP that we then use to pay off the loan that we've taken out to put the $60,000 into the store's new lighting, and over a period of years we pay that back and hopefully make a buck in the process."

King shakes his head when he talks about companies that aren't interested in energy savings without a quick return. "What we came along and did was to take on a lot of energy-saving projects in Maine that had three- and four- and five-year paybacks. And in effect, we brought them down for the customer to a year or two payback. And that got their interest, and so we got the projects. In a lot of the industrial facilities we walked into, people had energy-saving projects sitting on their shelves that they had already designed and were ready to build, but they could never get the capital out of their management. When we came in and said we'll do that project and pay for two thirds of it, boom! We got it."

King knows that the energy efficiencies he's creating are likely to be permanent, or at least long term. New energy-efficient pumps and motors last 25 or 30 years. Light bulbs may last only two or three years, but in most cases the new fixtures are wired so that the customer has to continue using energy-efficient types. "And we'll be keeping after our customers to keep using them," says King. That's good for Maine's environment, and good for King, since CMP will stop paying him if his customers stop saving electricity.

Right now, in these recessionary times, CMP has no need for increased generating capacity—or conservation—so its avoided cost rate is about zero. King's contract with CMP is nearly completed. But he knows that the recession will end, and that energy needs will increase as the economy comes back to life. When that happens, he's convinced, there will be new economic incentives to save electricity, broaden profit margins, and protect the environment. He'll be ready.

MAKING STEWARDSHIP PAY

(By Thomas Lepisto)

From the top of the hill on Route 201 just south of Jackman, the island-dotted surface of Attean Pond below glitters in the afternoon sun. Scenic beauty, outstanding fisheries, botanical diversity, and an undeveloped shoreline earned this 2700-acre pond high ranking among Maine's "gem lakes" in a 1990 State Planning Office report. In fact, the lake is just one of many natural jewels set in the surrounding landscape of Attean Township.

In this place where mountainous wildlands rise dramatically from the shores of pristine ponds, a bold experiment in private land management is underway. Its goal is the merger of socially responsible investment with traditional private land stewardship in the Maine Woods.

The mastermind of the Attean venture is an investment manager motivated by a spiritual vision. Jim Lowell, avid canoeist, kayaker, and financial number-cruncher, is the managing partner of Lowell and Company Timber Associates, the investment group that holds title to 17,000 acres of timberland in Attean Township and adjacent Dennistown Plantation.

"I was out paddling my kayak on Attean," Lowell explains in his Boston office. "A thunderstorm came through, and at the end of that thunderstorm there was a beautiful rainbow . . . the two arcs of the rainbow went up like this," he continues raising his arms to form an arch, "on the shore and then came right back to the point of my kayak for ten minutes. The spiritual impact of that is part of what drives me to do something to stabilize some of these places in Maine."

Lowell purchased the Attean land for his investment partnership in 1987 when the Coburn family, who had owned it for generations, sold off their Maine timberlands. Though some potential buyers were deterred by the restrictions the Coburns conveyed with the land in the form of conservation easements, it was exactly the situation Lowell had been waiting for—a chance to demonstrate that land in the Maine Woods could be managed to both take advantage of and protect its inherent multiple values.

"We were looking for opportunities where the traditional North Woods stewardship system appeared to have broken down," says Lowell. "We had investors who wanted to do something to establish high land-management standards and still get their money back, rather than just giving money to charity and having the charity hold the land and take it out of woods production. Remember, we are serious, for-profit investors."

Lowell succeeded in raising $3 million in private capital for the Attean purchase, enabling him to avoid any borrowing. Investors bought in hoping to double the value of their investment in a ten-year period while receiving an annual income of about two percent during that time. The midpoint of the ten-year investment period has now passed, with financial performance to date living up to expectations. The property has increased in value, and Lowell's numbers show his timber operation making a profit, leading him to question the assertions of industrial timberland owners who say they're having trouble doing the same.

Following his purchase of the Attean lands, Lowell's next step was to assemble a team of consultants to implement his vision for "sustainable forestry and sound multiple-use management." He brought together a group with a variety of expertise and viewpoints: commercial forester Steve Coleman, land-use planner Brian Kent, and environmental consultant Jerry Bley.

Lowell notes with a twinkle in his eye that "when we started off, it was clear that these three guys would not work together at all, and that's why we chose them. And I think it's extraordinarily clear now that there's a wonderful harmony and yet complete independence." In his diverse group of consultants, Lowell sees a model for "a partnership between the public, the non-profit, and the for-profit. That's what I passionately believe is the future of the Northern Forest."

Forest manager Steve Coleman is at the controls of his float plane, up for an eagle's-eye view of Attean Township. Below, the blue pupil of Bog Pond, ringed by Number Five Bog's mile-wide iris of green sphagnum moss, stares back at the sky. Smaller bogs speckle the landscape with swatches of yellow-green. Swamps of northern white cedar show as thin spots amid denser forest; the tree-covered slopes of Sally and Burnt Jacket mountains rise to open, rocky outcrops. An osprey cruises at treetop altitude along the western bay of Attean Pond. Water invites the gaze in every direction. As the floodplain of the Moose River passes below, Holeb Falls flashes a brilliant white. Over the Benjamin Valley, Coleman drops the plane to land on bedrock-rimmed Horseshoe Pond.

Strolling the mossy footpath from Horseshoe to Benjamin ponds, Coleman gestures to the right. "We could've put a road in over there," he says, "If harvested, this timber would be worth about $150,000." The timber in question is a stand of mature red pines, a forest cathedral that easily rates a perfect ten for scenic beauty. From it a black-backed woodpecker taps out its own estimation of its habitat value. If all goes according to Lowell's plans, this red pine stand will be left untouched, part of a 330-acre area between Benjamin, Horseshoe, and Long ponds that will be set aside as an ecological preserve and permanently protected by conservation easement.

Still, the vast majority of Lowell and Company's Attean lands are managed for commercial timber production, the money-making side of the management picture. From the air, haul roads, skid trails, the strikingly artificial pattern of checkerboard clearcuts, and thinned hardwood stands make it obvious that this is not a wilderness preserve.

Two major silvicultural methods are currently in use here. Hardwood stands have been thinned by selective cutting to encourage the growth of birch and sugar maple. Along a skid trail from a past year's harvest Coleman points out the new growth between the well-spaced large trees whose leaves close the canopy above. Such selective cutting has kept the views from Attean and Big Wood ponds unscarred, honoring the terms of the Coburn easements. Although it is aesthetically sensitive forestry, the long-term ecological impacts from the use of heavy equipment, alteration of species composition, and changed distribution of age classes in the forest remain to be seen.

Elsewhere, softwoods have been cut in square patches of about five acres in a checkerboard pattern, leaving adjacent five-acre patches uncut. While not technically clearcuts (a term applied only to areas larger than five acres by the Maine Forest Practices Act), they are de facto small clearcuts and aesthetically just as ugly. The uncut areas retain a buffer zone of forest, but they have lost their habitat value for species requiring large unbroken tracts of mature trees.

Especially sensitive forest habitats near shorelines and recreational trails get various levels of protection from easements and regulations of Maine's Land Use Regulation Commission (LURC). LURC regulation, including standards for preventing erosion on logging roads, plays an important role in protecting Attean Township's environment—a role Jim Lowell acknowledges as vital in the spirit of public-private partnership.

The major role to be played by LURC in shaping the future of Attean Township, however, is just beginning. Lowell's planner, Brian Kent of Maine Tomorrow, a community planning firm, has submitted a concept plan for an unusually low-impact form of real estate development to LURC for approval. The plan, though created under provisions intended to regulate development only along lakeshores, includes the entire Lowell and Company ownership.

"I think the future for Maine is that [land-use planning] should be done on a township by township basis," says Lowell," . . . stabilize a meaningful, recognized area and don't do it piecemeal. We're not talking about just shorefront, we're talking about a whole township with a permanent stabilization."

The development part of the plan proposes the creation of 65 new shorefront cabin lots, 45 of them on the shores of Big Wood Pond across the water from Jackman. All these lots would be set back from the shore, where the cabins would be screened from view by trees and accessible only by boat or on foot. Cabin clusters would be spaced widely and would leave 93 percent of the shorelines owned by Lowell and Company undeveloped.

A large shaggy cedar tree leaning over a rustic dock made from an old boat trailer marks the site where five cabins will stand if "Wood Pond Cluster A" is approved and sold. In the forest a short way beyond the shore there is one cabin now, a traditional Maine Woods "camp." Four more cabins here won't make this condominium city, but they should forestall what could otherwise be inevitable pressure for much more intensive development. That's the case in favor of limited development. "This isn't a model for the most remote lakes in Maine," notes Lowell's environmental consultant Jerry Bley. "Being close to the town of Jackman justifies limited development for parts of Attean Township."

Other provisions in Lowell's plan are offered as conservation tradeoffs for approval-in-concept of the limited development proposal. On Attean Pond, 11.9 miles of undeveloped shoreline now owned by Lowell would be donated to the state, and new conservation easements would protect about nine miles of shoreline on Mud, Big Wood, and Little Big Wood ponds.

Attean Township is the setting for an array of recreation activities, and Lowell and Company's management has protected the tradition of public access to the backcountry. The area is popular during deer hunting season, when hunters can use a combination of foot travel and water routes to get around. Public motorized access is barred by a locked gate on the main haul road; non-motorized entry is allowed free of charge.

Lowell has worked closely with the Maine Bureau of Public Lands (BPL), whose Holeb Pond tract borders Attean Township on the west, to maintain the portage trail between Holeb and Attean ponds, a link in the Moose River Bow canoe trip. They're also cooperating to map hiking trails in the area, including a new trail up Burnt Jacket Mountain to a superb viewpoint called Coleman's Knob, which was constructed at Lowell's expense. Lowell's largest single recreational investment ($6000) was the reconstruction of two primitive cabins at Holeb Falls for free public use.

In contrast to the lifetime, and indeed multi-generational, tenure of the Coburns, Lowell and Company's term of stewardship in Attean Township has been planned to last just ten years, five of which have already passed. After that a new landowner and a different forester may be in charge. Thus Lowell's Attean venture raises a number of important questions.

Will LURC approve a concept plan not limited to the "necklaces" of lakeshores but encompassing an entire township? If LURC accepts the concept plan, will there be a market for the primitive camp lots without road access that Lowell proposes to develop? And can a qualified party be found to hold new conservation easements? The effect of the plan on the market value of the property is also a key question. The last time the township changed hands, some potential buyers were deterred by the restrictions the Coburns had placed on the land. Questions also remain as to whether compliance with the provisions of the concept plan, the various easements, and LURC regulations will be adequately monitored and enforced, and whether the next landowner will share Jim Lowell's commitment to stewardship.

Jerry Bley, who as a member of the Northern Forest Lands Council looked at broad policy concerns affecting the 26-million-acre Northern Forest region, is uniquely qualified to see Attean in that larger context. "Jim Lowell in Attean Township is dealing with the same issues of maintaining traditional values as the Council," he says, "including the question of how private property can protect public values such as wildlife habitat, scenery, and recreation."

Jim Lowell's spirit of cooperation with the public sector (including regulatory agencies), the choices he's made to forgo some potential dollar returns in favor of environmental values, and his welcoming of diverse points of view are signs that he has established a distinct kind of private land stewardship. It's not a simple revival of the way things used to be; it's a step toward finding specific answers to the global question of how ecological and economic values can both be sustained.

WORKING FOR THE NEXT GENERATION

(By David D. Platt)

Ask Jim Robbins what he means by sustainable forestry and his response is quick and self-assured. "We're in this business for the long haul," he says. "We want the resource to be here for the next generation."

That kind of thinking isn't too surprising considering that Robbins is the fourth generation to head up his family's lumber business. Established in 1881 when Robbins' great-grandfather built a water-powered sawmill in Searsmont, Robbins Lumber Company today stands out as an example of the value in practicing sustainable natural resource use.

The old sawmill is gone now, of course, replaced by a modern facility half a mile away that saws white pine logs into a variety of products. Just as important to the family firm's continued success, however, is that the forest land that once supplied great-grandfather Robbins' mill is growing new generations of high-quality pine, oak, maple, birch, ash, and hemlock. In a state where much of the forest land has been "high-graded"—stripped of its best trees and left to regenerate on its own—this is unusual.

"We are tree farmers," Jim Robbins says, and in fact the forestry operations he shows visitors do parallel crop cultivation: planting, fertilizing, weeding, thinning, pruning, harvesting, replanting. And like most modern farming enterprises, Robbins' operation is largely automated.

It wasn't always this way. When Robbins joined the family firm after earning a forestry degree from the University of Maine in 1968, much of the land the company depended upon for its pine sawlogs was overgrown with low-grade timber. If it were to survive and prosper, Robbins reasoned, something had to be done to increase the supply of commercially valuable trees, particularly pine (whose market price has kept ahead of inflation over the years). That required thinning stands and culling out the low-value hardwood. The problem, Robbins remembers, was the lack of a market at the time for this forest "waste." If the tops, branches, rotten trees, and species that couldn't be turned into pulp, plywood, or lumber had to be left in the woods to rot, any stand improvements had to come right out of the landowner's pocket. And given the long-term nature of forest growth, that was not an investment many landowners could afford.

That changed in 1975 when Robbins became one of the first companies in the region to install a biomass boilder that would burn chipped leftovers from forestry operations and bark, sawdust, and shavings from the Searsmont mill. The boiler produces steam for the mill's drying kiln and generates 1.2 megawatts of electricity, saving and even earning money for the company from the sales of excess power. Since the boiler went on line, the value of bark, sawdust, and shavings (for mulch, particle board, and animal bedding respectively) has risen to the point where the company burns only wood chips in the boiler—100 tons a day, seven days a week.

By giving value to what had formerly been waste, the boiler has had noticeable effects on the company's forestry operations. Tree branches, tops, and other brush are routinely chipped, meaning harvest sites and log landings are swept clean. Robbins maintains that a forest floor that is not cluttered with slash makes for better regeneration. He also maintains that nutrient depletion is not a problem since a relatively small portion of the biomass produced by a tree over its lifetime is locked up in branches or even its trunk at the time it is cut.

The value of chips also makes it economically feasible to thin stands before they reach commercial size, leaving the best trees to grow with less competition. The company's long term goal is a "shelterwood" management system, under which stands get one or two thinnings before the big trees are harvested. Successive crops of seeds from the larger trees promote regeneration, and shade from the large overstory trees keeps down the raspberries and undesirable hardwoods. Shade also makes the smaller pines in the stand less vulnerable to pine weevil, a pest that doesn't do well in shade.

Like other Maine forest products companies, Robbins Lumber has done its share of clearcutting, although primarily for the purpose of reestablishing white pine as the dominant species. "We're not fans of clearcutting," he says, noting that state law now limits the size of cuts and that "every acre we cut is replanted unless there's an adequate natural seed crop." Still, he believes clearcutting has its place and wishes that the public was more understanding of forest management practices and less preoccupied with their initial visual appearance.

Until recently the company used herbicides (principally Garlon and Roundup) to kill hardwoods on sites to be replanted with pine, a practice common in the Maine forest products industry. Today, under the shelterwood system, herbicide use has stopped. Insecticide spraying for pine weevil continues (foresters treat individual trees from the ground), but Robbins hopes that can be reduced or stopped in the near future.

The company also believes in up-to-date harvesting technology. "We hardly ever touch a chainsaw anymore," Robbins remarks as he shows a visitor around a cutting operation a few miles from the mill. Equipment at the scene includes a small fellerbuncher (a type of mechanical harvester) that moves on tracks and leaves the forest floor relatively unscarred compared with conventional fellerbunchers. There's also a delimber and a chipper that blows chips into a large van for transport to the boiler. Logs are sorted at the site—white pine for the sawmill, hardwood for sale to other mills, tops, branches, and low-grade trees for the chipper.

In addition to ensuring a sustainable harvest of timber from the 5,000 acres the company owns, Robbins works closely with the landowners in central and eastern Maine from whom he buys logs. Similar to programs offered by other Maine forest-products firms, Robbins Lumber's landowner assistance program is rooted in the belief that woodlands are best managed by professional foresters. The company employs two full-time foresters and three forestry technicians to provide forestry assistance to landowners requesting it without obligation to sell timber to the company.

Two other company policies suggest a land ethic that goes beyond wood production in recognizing the multiple values inherent in the forest. Foresters and crews are instructed to leave behind all apple trees they encounter as a food source for wildlife. And company land is open to the public for hunting, fishing, snowmobiling, hiking, and camping.

Certainly having its own biomass boiler is an advantage, but that is not what sets Robbins Lumber apart. It is the company's approach to forestry in which having a continuing supply of trees is as important as quarterly cash flows. One can't make "short-term decisions about a long-term crop," Jim Robbins says. "Long-term management decisions are what we're talking about. All businesses should be run that way."

Whatever others attempt to do with their land, the long view seems to serve Jim Robbins well. The shortest "rotation" in his business is the eight years it takes to grow one of the 150,000 Christmas trees the company sells each year; more usual is the 60 to 80 years it takes to produce a big white pine. As a family business, Robbins Lumber can't afford to think solely in terms of the next quarter's profits. "That's the difference between small family operations and large corporations," he says. "It changes the way we look at the woods."

WELCOME, MATHIAS FITZGIBBONS HELLER

Mr. MOYNIHAN. Mr. President, I rise today to announce the birth of Mathias Fitzgibbons Heller to Ms. Patti Fitzgibbons and her husband, Mr. Mick Heller. Mathias Fitzgibbons Heller was born Tuesday, January 26, 1993. He is well and loud. His mother is well. My warmest congratulations to all.

IN MEMORY OF THURGOOD MARSHALL

Mr. LEAHY. Mr. President, few men or women are privileged to change the course of history. Last week, this Nation said goodbye to Thurgood Marshall, who will be remembered as a

man who challenged his country to live up to its promises of freedom and justice for all citizens, regardless of their gender, their race, or their economic position. He was a man who dared to change the world in which he lived.

Many of us here had the honor of meeting Justice Marshall and of working closely on the Judiciary Committee with his son. Like his father, Thurgood Marshall, Jr., is an extraordinary individual of compassion, with a great sense of humor and a deep commitment to public service. I extend my deepest regrets to Goody and his family.

President Kennedy said:

[W]ithout belittling the courage with which men have died, we should not forget those acts of courage with which men have lived. * * * A man does what he must—in spite of obstacles and dangers and pressures—and that is the basis of all human morality.

Thurgood Marshall was a man of extraordinary courage. When he retired from the Supreme Court, he said he hoped to be remembered as a person who "did what he could with what he had." That is a modest hope for a preeminent civil rights lawyer, who excelled as Solicitor General, as a Supreme Court Justice, and as a husband and father. Thurgood Marshall committed himself to improving the lives of others, to speaking for those with no voice, and to fighting for those with no power.

This Nation will remain forever in his debt.

From children who no longer suffer the indignity and unfairness of segregated schools;

To defendants who during Marshall's tenure could rely on him to speak out to protect their rights;

To black elected officials who can no longer be excluded from primary elections; and

To all Americans who are reminded that democracy, freedom, and justice require our continued commitment and vigilance.

Despite his enormous contribution, Thurgood Marshall's work is not done. In 1964, President Johnson declared:

We have talked long enough in this country about equal rights. We have talked for a hundred years or more. It is time now to write the next chapter—and to write in the books of law.

Thanks to Thurgood Marshall the laws have been written. Segregation is illegal. Discrimination is illegal. But as we know all too well, racism persists and inequality of opportunity is its own form of discrimination.

Marshall knew this and grew ever more frustrated with the Supreme Court's recent unwillingness to protect individual rights and liberties. In his last in a long series of dissenting opinions, Justice Marshall warned of the conservative tide:

Tomorrow's victims may be minorities, women or the indigent. Inevitably, this campaign to resurrect yesterday's spirited dissents will squander the authority and legitimacy of this Court as a protector of the powerless.

Thurgood Marshall was a protector of the powerless. For that, each of us owes him our respect and our deepest gratitude.

JOE ALBERTSON—AN APPRECIATION

Mr. KEMPTHORNE. Mr. President, Idaho and the United States recently lost a tremendous friend and a well-respected businessman with the passing of Joe Albertson.

Joe Albertson was a truly great philanthropist, and was so generous with his contributions. The 40-acre Kathryn Albertson Park nature refuge in downtown Boise, one of the top liberal arts private colleges in America, Albertson College of Idaho in Caldwell, and the Albertsons Library at Boise State University are all shining examples of his willingness to share his success with others.

For all his success and generosity, Joe Albertson was a humble and modest man, never seeking the spotlight or attention. In his quiet but forceful way, Joe Albertson was a tremendous businessman, and many can model themselves after his work ethic, determination, and drive to succeed.

I will always remember and cherish the opportunities I had to work with Joe Albertson. He is a man I greatly admired. He embodied the Idaho spirit and ethic, taking one tiny grocery store in Boise, and turning it into the Nation's sixth largest grocery store chain. But he never lost touch with his customers. Even after retiring from the daily operation of his company, it was not unusual to see Joe in his stores, chatting with customers and employees. Joe Albertson cared about people. That's the legacy he leaves.

While the Nation has lost a great man, Joe Albertson's undaunted entrepreneurial spirit lives on in the 70,000 Albertson's employees in 19 States.

Joe Albertson was a fine man, whose directness and laughter will be missed by all whose lives he touched. Idaho has lost a great friend, and my thoughts and prayers are with his wife Kathryn and the Albertson family.

FAMILY AND MEDICAL LEAVE ACT OF 1993 AMENDMENTS

Mr. PRESSLER. Mr. President, today I submit several amendments I intend to offer during the Senate's consideration of the Family and Medical Leave Act of 1993.

For more than 8 years, Congress has debated legislative proposals requiring employers to provide family and medical leave benefits to their employees. Such lengthy congressional consideration of this issue should not be taken lightly. It demonstrates we are doing our jobs as U.S. Senators, debating and discussing all sides of this complex matter. The legislative process is working.

Mr. President, it is our obligation to ensure that prior to passage of S. 5, all contentious provisions of that legislation are addressed. As ranking member of the Senate Small Business Committee, I plan to offer amendments to address some key concerns to our Nation's small business owners. These amendments would ensure greater fairness to both employees and their employers.

AMENDMENT TO ADJUST COBRA COVERAGE

In order to deter potential employee abuse of mandated leave, I intend to offer an amendment to adjust the health insurance continuation coverage requirement mandated under the Consolidated Omnibus Budget Reconciliation Act of 1985 [COBRA]. This adjustment would affect only those employees who take leave from employment and do not return to work following their leave period. However, as I will explain, this adjustment does not actually reduce the overall duration of coverage that an individual is currently eligible to receive.

As written, S. 5 would permit an employee to take up to 3 months of leave, not return to work, and be eligible for at least 18 months of group health insurance coverage under COBRA. Thus, the employee could receive a total of 21 months of insurance coverage by taking family or medical leave and not being up front with his or her employer that he or she won't be returning to work.

My proposal does not decrease an individual's realized coverage period. COBRA coverage would only be adjusted by the period of coverage the employee had already received while on leave. This amendment will remove an incentive to deceive an employer. It is a reasoned means to deter employee abuse of leave policies.

AMENDMENTS TO CORRECT FLSA INTERPRETATION

One of the provisions in the Family and Medical Leave Act of 1993 that is different from the version debated during the last Congress deals with the interpretation of the Fair Labor Standards Act [FLSA]. As I understand it, this provision was added to address a serious problem known as the partial day docking rule. Unfortunately, this new provision is only a limited and partial fix.

Under the Department of Labor's interpretation of FLSA, employers can face penalties if they grant partial day unpaid absences to exempt employees who have used all their available leave. Unfortunately, the corrective provision in S. 5 is only a partial solution.

I plan to offer an amendment to provide protection to employers who have been providing unpaid family and med-

ical leave prior to enactment of S. 5. Without this protection, any employer who currently is providing unpaid leave remains exposed for potential liability suits. In addition, I may offer an amendment to provide protection to any employer who voluntarily has been providing unpaid leave benefits to their employees. If this Congress does not provide protection to all employers that today face liabilities because they have voluntarily offered their employees needed leave benefits, we are contradicting the supposed intent of this legislation. Without my amendment, Congress is telling employers not covered under S. 5 that they should not offer reduced or intermittent leave to their employees during times of need. In all, we would be holding the small businesses' doors open for lawsuits.

COMMISSION ON LEAVE

As currently written, the bill establishes a Commission on Leave to study existing and proposed policies relating to leave and the potential costs, benefits, and impact on productivity of such policies on employers. My amendment would provide more specific reporting requirements to the Commission. This would include an analysis of employers ability to collect premium payments from employees who do not return from leave. It also would expand the study to assess leave cost for employees not covered under this act. The amendment would add the Secretary of Commerce and the Administrator of the Small Business Administration [SBA] as ex officio members of the Commission. Finally, the other Commission members appointed because of expertise would include representation from both large and small businesses. In short, this amendment is designed to ensure that leaders of businesses large and small have their voices heard during the enforcement of the Family and Medical Leave Act.

Mr. President, I urge all of my colleagues to review these amendments and welcome their cosponsorship and support. I send these amendments to the desk and ask unanimous consent that they be printed in the appropriate place in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

At the end of section 104(c) of the bill, add the following:

(4) CONTINUATION COVERAGE.—

(A) IN GENERAL.—For purposes of section 4980B of the Internal Revenue Code of 1986, part 6 of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.), or title XXII of the Public Health Service Act (42 U.S.C. 300bb–1 et seq.), if an employee who is a covered employee under a group health plan fails to return from leave under section 102 after the period of leave to which the employee is entitled has expired, the group health plan shall provide continuation coverage to the employee for at least the period beginning on the first day after the period of leave has expired and ending not earlier than the earliest of the following:

(i) GENERAL RULE.—The date that is n days after such first day, where n is the difference obtained by subtracting, from 548 days, the number of days of leave taken by the employee.

(ii) SPECIAL RULE FOR MULTIPLE QUALIFYING EVENTS.—If a qualifying event (other than termination) occurs during the period beginning on such first day and ending on the date described in clause (i), the date that is m days after such first day, where m is the sum of n and 548 days.

(iii) OTHER EVENTS.—The date specified in subclause (III), (IV), or (V) of clause (i), or in clause (ii), (iii), (iv), or (v), of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986, as appropriate.

(B) DEFINITIONS.—As used in this paragraph:

(i) CONTINUATION COVERAGE.—The term "continuation coverage" means coverage under a group health plan that meets the requirements specified in subparagraphs (A), (C), (D), and (E) of section 4980B(f)(2) of the Internal Revenue Code of 1986.

(ii) COVERED EMPLOYEE; GROUP HEALTH PLAN; QUALIFYING EVENT.—The terms "covered employee", "group health plan", and "qualifying event" have the meanings given the terms in subsections (f)(7), (g)(2), and (f)(3), respectively, of section 4980B of the Internal Revenue Code of 1986.

Strike section 302(1) of the bill and insert the following:

(1) conduct a comprehensive study of—

(A) existing and proposed—

(i) government-imposed policies; and

(ii) voluntary business policies, relating to family and temporary medical leave;

(B) the potential costs, benefits, and impact on productivity and net job creation, and, with respect to private businesses, the impact on business growth, of—

(i) the policies described in subparagraph (A); and

(ii) the policies required by this Act and the amendments made by this Act,

with respect to employers (including employers covered by this Act, covered by the amendments made by this Act, or with fewer than 50 employees);

(C) the comparative effect of the costs and benefits of the policies described in subparagraph (B) with respect to the employers, analyzed by the type, size, and industry of the employers affected;

(D) the potential costs, benefits, and impact on productivity and net job creation, and, with respect to private businesses, the impact on business growth, of the policies described in subparagraph (B) with respect to employees;

(E) the comparative effect of the costs and benefits of the policies described in subparagraph (B) with respect to employees, analyzed by the type, size, and industry of the employers of the employees affected;

(F) the potential costs, benefits, and impact on productivity and net job creation, and, with respect to private businesses, the impact on business growth, of family and temporary medical leave policies, with respect to the employers and employees, in businesses that offer employee benefit plans other than the benefit plans required by the policies described in sub-paragraph (A)(i) or (B)(ii);

(G) alternative policies to reduce the costs of employers and employees of policies described in subparagraph (A)(i) of (B)(ii);

(H) alternative and equivalent State enforcement of title I with respect to employees described in section 108(a); and

(I) the ability of the employers to recover, under section 104(c)(2), the premiums described in such section; and

In section 303)a)(1) of the bill, strike "and 2" and insert "and 4".

In section 303(a) of the bill, strike paragraph (1)(C)(ii) and all that follows through paragraph (2) and insert the following:

(ii) EXPERTISE.—Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues. Such members shall include representatives of employers, including employers from large businesses and from small businesses.

(2) EX OFFICIO MEMBERS.—The Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Commerce, and the Administrator of the Small Business Administration shall serve on the Commission as nonvoting ex officio members.

Section 102(c) of the bill is amended by adding at the end the following: "Notwithstanding section 405(b)(1), the preceding sentence, and the application of this title for purposes of the preceding sentence, shall be deemed to have taken effect on June 25, 1938.".

Section 102(c) of the bill is amended to read as follows:

(c) UNPAID LEAVE PERMITTED.—

(1) IN GENERAL.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

(2) RELATIONSHIP WITH FAIR LABOR STANDARDS ACT OF 1938.—

(A) IN GENERAL.—Where an employee is otherwise exempt under regulations issued by the Secretary pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)), the granting of unpaid family leave by any employer (as defined in section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d))) shall not affect the exempt status of the employee under such section 13(a)(1).

(B) DEFINITION.—As used in this paragraph, the term "unpaid family leave" means—

(i) in the case of leave granted by any employer (as defined in section 101(4)), unpaid leave granted in compliance with this title; and

(ii) in the case of leave granted by any employer described in subparagraph (A) who is not an employer described in clause (i)—

(I) unpaid leave that may be taken for one or more of the reasons described in subparagraph (A) or (B) of section 102(a)(1), and may be taken as intermittent leave or leave on a reduced leave schedule; and

(II) restoration to employment, and continued coverage under a group health plan, in accordance with section 104.

(C) EFFECTIVE DATE.—Notwithstanding section 405(b)(1), this paragraph, and the application of the provisions described in subclause (I) or (II) of subparagraph (B)(ii) for purposes of this paragraph, shall be deemed to have taken effect on June 25, 1938.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,167,200,410,899.83 as of the close of business on Friday, January 29.

Anybody remotely familiar with the U.S. Constitution is bound to know that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States. Therefore, no Member of Congress, House or Senate, can pass the buck as to the responsibility for

this shameful display of irresponsibility. The dead cat lies on the doorstep of the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 merely to pay the interest on deficit Federal spending, approved by Congress, over and above what the Federal Government has collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $16,233.69—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averages out to be $1,127.85 per year for each man, woman, and child in America. Or, looking at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America's economic stability be today if there had been a Congress with the courage and the integrity to operate on a balanced budget? The arithmetic speaks for itself.

GEORGE KENNAN'S WISE COUNSEL ON WHO WON THE COLD WAR

Mr. PELL. Mr. President, our country has long been well served by the wisdom of George Kennan, who has the double distinction of being both our elder statesman and our most distinguished scholar of American foreign policy.

Ambassador and Professor Kennan's career spans more than 60 years, from his early days as a foreign service officer in Berlin and Russia to his current eminence as professor emeritus at the Institute for Advanced Study in Princeton. The Foreign Relations Committee has repeatedly benefited from his thoughtful testimony. In a rare tribute he received a standing ovation from the committee and a crowded hearing room when he testified before us on the end of the cold war and what should be done to assist the former Soviet Union in the transformation to democratic and free market institutions. The only other time that I recall a similar burst of applause was when Professor Kennan had testified before us some 20 years earlier.

On October 28, 1992, Professor Kennan published a characteristically penetrating article on the op-ed page of the New York Times under the headline "The G.O.P. Won the Cold War? Ridiculous." In the article Professor Kennan observed, "The suggestion that any administration had the power to influence decisively the course of a tremendous domestic political upheaval in another great country on the other side of the globe is simply childish. No great country has that sort of influence on the internal developments of any other one."

Professor Kennan observed that as early as the late 1940's it was possible to see that the Communist regime was becoming "dangerously remote from the concerns and hopes of the Russian people." He writes:

There were some of us to whom it was clear, even at that early date, that the regime as we had known it would not last for all time. We could not know when or how it would be changed; we knew only that change was inevitable and impending.

Mr. President, without pretending to assume Professor Kennan's mantle of wisdom, I would note that my own experience in the Communist controlled regions of Eastern Europe during the same period—that is, the late 1940's—caused me also to predict the eventual demise of communism. During my own foreign service during that period, it was apparent to me that communism did not fulfill the material or the spiritual needs of the people it pretended to serve, and that it contained the seeds of its eventual undoing.

Professor Kennan goes on to note how some of America's hardline policies over the years may actually have delayed the eventual collapse of communism. He writes:

Nobody—no country, no party, no person—"won" the cold war. It was a long and costly political rivalry fueled on both sides by unreal and exaggerated estimates of the intentions and strength of the other party. It greatly overstrained the economic resources of both counties, leaving both, by the end of the 1980's, confronted with heavy financial, social and, in the case of the Russians, political problems that neither had anticipated and for which neither was fully prepared.

Mr. President, Professor Kennan speaks to the dilemma we face today, which is how to invigorate our own economy and at the same time to play our necessary role in assisting the countries of the former Soviet Union to overcome the devastation caused by more than 70 years of Communist rule.

The question of who "won" the cold war fades to insignificance in face of these massive challenges confronting both sides in the aftermath of this tragic era. The costs to the people of the former Soviet Union are becoming more obvious with each passing month. The burdens on the West are also great as we join with our allies in helping to bring about democratic change and a free market economy in that region.

I ask unanimous consent that the article by George F. Kennan in the October 28, 1992, New York Times be printed in the RECORD at this point.

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

[From the New York Times, Oct. 28, 1992]

THE GOP WON THE COLD WAR? RIDICULOUS

(By George F. Kennan)

PRINCETON, NJ.—The claim heard in campaign rhetoric that the United States under Republican Party leadership "won the cold war" is intrinsically silly.

The suggestion that any Administration had the power to influence decisively the course of a tremendous domestic political upheaval in another great country on another side of the globe is simply childish. No great country has that sort of influence on the internal developments of any other one.

As early as the late 1940's, some of us living in Russia saw that the regime was becoming dangerously remote from the concerns and hopes of the Russian people. The original ideological and emotional motivation of Russian Communism had worn itself out and become lost in the exertions of the great war. And there was already apparent a growing generational gap in the regime.

These thoughts found a place in my so-called X article in Foreign Affairs in 1947, from which the policy of containment is widely seen to have originated. This perception was even more clearly expressed in a letter from Moscow written in 1952, when I was Ambassador there, to H. Freeman Matthews, a senior State Department official, excerpts from which also have been widely published. There were some of us to whom it was clear, even at that early date, that the regime as we had known it would not last for all time. We could not know when or how it would be changed; we knew only that change was inevitable and impending.

By the time Stalin died, in 1953, even many Communist Party members had come to see his dictatorship as grotesque, dangerous and unnecessary, and there was a general impression that far-reaching changes were in order.

Nikita Khrushchev took the leadership in the resulting liberalizing tendencies. He was in his crude way a firm Communist, but he was not wholly unopen to reasonable argument. His personality offered the greatest hope for internal political liberalization and relaxation of international tensions.

The downing of the U–2 spy plane in 1960, more than anything else, put an end to his hope. The episode humiliated Khrushchev and discredited his relatively moderate policies. It forced him to fall back, for the defense of his own political position, on a more strongly belligerent anti-American tone of public utterance.

The U–2 episode was the clearest example of that primacy of military over political policy that soon was to become an outstanding feature of American cold war policy. The extreme militarization of American discussion and policy, as promoted by hard-line circles over the ensuring 25 years, consistently strengthened comparable hard-liners in the Soviet Union.

The more America's political leaders were seen in Moscow as committed to an ultimate military rather than political resolution of Soviet-American tensions, the greater was the tendency in Moscow to tighten the controls by both party and police, and the greater the braking effect on all liberalizing tendencies in the regime. This, the general effect of cold war extremism was to delay rather than hasten the great change that overtook the Soviet Union at the end of the 1980's.

What did the greatest damage was not our military preparations themselves, some of which (not all) were prudent and justifiable. It was rather the unnecessarily belligerent and threatening tone in which many of them were publicly carried forward. For this, both Democrats and Republicans have a share of the blame.

Nobody—no country, no party, no person—"won" the cold war. It was a long and costly political rivalry, fueled on both sides by unreal and exaggerated estimates of the intentions and strength of the other party. It greatly overstrained the economic resources

of both countries, leaving both, by the end of the 1980's, confronted with heavy financial, social and, in the case of the Russians, political problems that neither had anticipated and for which neither was fully prepared.

The fact that in Russia's case these changes were long desired on principle by most of us does not alter the fact that they came—far too precipitately—upon a population little prepared for them, thus creating new problems of the greatest seriousness for Russia, its neighbors and the rest of us, problems to which, as yet, none of us have found effective answers.

All these developments should be seen as part of the price we are paying for the cold war. As in most great international conflicts, it is a price to be paid by both sides. That the conflict should now be formally ended is a fit occasion for satisfaction but also for sober re-examination of the part we took in its origin and long continuation. It is not a fit occasion for pretending that the end of it was a great triumph for anyone, and particularly not one for which any American political party could properly claim principal credit.

POLL SHOWS RUSSIAN PEOPLE ARE GROWING IMPATIENT WITH DEMOCRACY AND YEARNING FOR A STRONG LEADER—SHADES OF 1917

Mr. PELL. Mr. President, a survey of the Russian people conducted by the Times Mirror Center for the People and the Press, reported in an article by Doyle McManus in the January 27 Los Angeles Times, has found that the Russian people are growing impatient with democracy and yearning increasingly for a strong leader to solve their problems.

According to the survey director, Mr. Andrew Kohut, "There are real indications that support for democracy is eroding in Russia, especially among the best and brightest. It would be much easier—for Russians—to embrace or return to a closed society" than it was 2 years ago.

The poll found that, asked to choose between a strong leader or a democratic government, 51 percent of Russians favor a strong leader and 31 percent favor democracy. This is a major shift from a similar poll 17 months ago, when 51 percent said they favor a democratic government and 39 percent want a strong leader.

Mr. President, a year ago this month I was among the first Senators to visit Russia and other parts of the New Commonwealth of Independent States. I came away then with the feeling that I expressed in this body and elsewhere that there was a danger that the Russians would turn toward a man on a horse who would promise strong leadership as an alternative to floundering democracy. This is very much what happened in 1917 when the West failed to come to the help of the democratic Kerensky government, only to see it fall to the authoritarian leadership of Lenin, the Communist Party, and later Joseph Stalin.

This published survey suggests that what I observed, and feared, may be coming true, at least in the minds of the Russian people. This makes it all the more important that the Western countries, very much including ourselves, mount a sustained and intelligent effort to strengthen democracy and help build the institutions that we know are necessary for a responsive political system and a free market economy.

I welcome the appointment of Mr. Strobe Talbott as Ambassador at Large and special adviser to the Secretary on the New Independent States, and am further heartened by the announcement that Tom Pickering will become the United States Ambassador to Russia. I know these are two very able persons who will bring energy and leadership to the great task of working through the many and serious problems that face Russia and the other parts of the former Soviet Union.

I am sure they are aware of the attitudes of the Russian people as presented in the Times Mirror survey, and the implications of this for the future governance of this important region. To bring it to a wide audience, I ask that the article from the January 27 Los Angeles Times be printed in the CONGRESSIONAL RECORD at this point.

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

RUSSIANS FAVOR STRONG LEADER

(By Doyle McManus)

WASHINGTON.—Buffeted by economic and political turmoil, the Russian people are growing impatient with democracy and yearning increasingly for a strong leader to solve their problems, a poll conducted by the Times Mirror Center for the People and the Press has found.

"There are real indications that support for democracy is eroding in Russia, especially among the best and the brightest," said Andrew Kohut, who directed the survey of 1,000 people in eight areas of European Russia. "It would be much easier [for Russians] to embrace a return to a closed society" than it was two years ago, he added.

The poll found that, asked to choose between a strong leader or a democratic government, 51 percent of Russians favor a strong leader and 31 percent favor democracy. That was a major shift from a similar poll 17 months ago, when 51 percent said they favor a democratic government and 39 percent want a strong leader.

The poll also found increased hostility toward free-market economic reforms and increased uncertainty about whether democracy and capitalism are the correct way to organize a society.

The findings of the poll, one of the most comprehensive surveys ever undertaken in the former Soviet Union, are likely to reinforce a growing sense of alarm in the American government over the possibility that an unfriendly authoritarian regime could emerge in Moscow if the current reforms fail.

Kohut said the overall conclusion of the poll is that democracy is increasingly vulnerable in Russia because people have seen little concrete evidence that it works. "This is certainly not a prediction that democracy is going to die in Russia," he said. "But it's a statement of fact that there's a different political climate now than there was a few years ago," in the first wave of enthusiasm for democratic reforms.

William Green Miller, president of the American Committee for U.S.-Russian Relations, a private organization, agreed, observing: "The situation is very volatile. This is a country in creation. . . . But democracy can still work there."

Miller noted that the Russians' desire for a "strong leader" does not necessarily mean they have abandoned democracy. "Who says a democratic leader can't be strong?" he asked.

Indeed, the pollsters noted, only 12% of Russians flatly said they disapprove of democracy, and only 10% said that they want a return to communism.

And some features of a capitalist economy have become less unpopular: In 1991, 57% said that private entrepreneurs were a bad influence on society but last year that number dropped to 33%.

Still, the percentage who want democratic reforms to go faster has dropped since 1991 from 40% to 31%, and the percentage who favor Western-style capitalism has dropped from 40% to 32%.

Russian President Boris N. Yeltsin's approval rating has fallen to 54%, compared with 85% in 1991. At the same time, approval for his more authoritarian and nationalist rival, Vice President Alexander V. Rutskoi, stands at the same level as Yeltsin's: 54%.

The Russian public is growing tired of politics, as well: 37% said they were not interested in political issues, contrasted with 19% in 1991.

And public confidence in some democratic institutions has dropped: Only 17% said that they think the Russian Parliament is playing a positive role in society, contrasted with 45% in 1991.

The poll was also conducted in Ukraine and Lithuania, where disenchantment with democracy was less acute than in Russia. In Ukraine, 50% said they preferred democracy to a strong leader; in Lithuania, 67% preferred democracy.

The poll also detected widespread ethnic antagonism. In Russia, 22% of respondents said they have "unfavorable opinions" of Jews. Russians were even more unfavorable to ethnic groups of the southern republics of the Caucasus, whom many Muscovites view as unscrupulous swindlers; they gave Armenians, Azerbaijanis and Georgians "unfavorable" ratings from 46% to 50%.

The survey was conducted Nov. 1–15 by local pollsters under the direction of the Times Mirror Center, a project of the Times Mirror Co., which owns The Times. The statistical margin of sampling error was plus or minus 3%.

Mr. MATHEWS. Mr. President, I wish to join with my colleagues today in paying tribute to Supreme Court Justice Thurgood Marshall, a true champion of civil liberties, individual rights, and the common man, whose contributions to this country have left an indelible mark on our Nation's history.

Thurgood Marshall's superior skills as a litigator coupled with his legal brilliance and sense of justice and fairness truly transformed the Nation, as well as the Supreme Court.

Mr. President, as an attorney for the NAACP legal defense fund, Justice

Marshall played a pivotal role in pioneering the cause and plotting the course of civil rights in this country. In fact, during his tenure with the NAACP, Justice Marshall tried or participated in 12 cases in my own home State of Tennessee.

Some of these cases served as a foundation for the landmark 1954 Supreme Court decision in the Brown versus Board of Education case, ending segregation, for which Justice Marshall will most certainly always be remembered, and which has given him a most prominent place in our Nation's history.

As the first African-American to be appointed to the Supreme Court in 1967, Marshall brought to the Court a different perspective, and also brought the Court closer to truly representing the cultural diversity of the United States.

During his 24 years on the Court he continued to work to further advance civil rights, and to preserve individual rights and civil liberties through his interpretation of the laws and rulings of the Nation's judicial system.

Justice Marshall's final case on the Supreme Court again involved the State of Tennessee. As the balanced scales serve as a visible symbol of justice, Marshall, as he often did in his dissenting opinions, spoke on behalf of all minorities and in that specific case, also the rights of defendants involved in the legal system.

Mr. President, I was pleased to hear that the Federal Judiciary Building in Washington, DC, will be renamed the Thurgood Marshall Federal Judiciary Building, and feel that this designation is indeed appropriate in serving to honor the memory of Justice Marshall.

I am pleased to join with my colleagues in paying tribute to this outstanding individual whose commitment to justice was unparalleled and whose contributions to this country and its citizens in the preservation of civil liberties has been unmatched in our time.

RALPH TASKER

Mr. BINGAMAN. Mr. President, it is a pleasure for me to salute one of the great coaches and teachers in New Mexico, Ralph Tasker of Hobbs. Last Friday night, on his home court, in an arena bearing his name, Mr. Tasker entered the record books by coaching the Hobbs High School team to its 1,027th victory. This makes Coach Tasker the winningest coach in boys' basketball, and is, as you might know, a national record that has attracted wide attention not only in our State, but across the country.

Coach Tasker is well-known in New Mexico, and is beloved by many people. This is not just because he coaches winning basketball teams, although that does not hurt. Rather, the respect and affection we in New Mexico have for him are due to the kind of man he is, the way he treats his players and fans, and the value he puts on education for all his students. With expected and becoming modesty, Mr. Tasker gives credit to his family, his teams, and the Hobbs community for his success. They deserve some of it, of course, but the lion's share must go to the man who describes himself as being "just a plain old high school teacher and proud of it"—Ralph Tasker.

All of New Mexico is proud of him, and of the acclaim he has brought to our State in his 48-year career of being the kind of person, the kind of coach, the kind of teacher we want to guide our children.

REMARKS OF SENATOR INOUYE AT THE RESERVE OFFICERS ASSOCIATION MINUTE MAN OF THE YEAR AWARD

Mr. STEVENS. Mr. President, I want to take a few minutes of the Senate's time to introduce into the RECORD remarks made recently by my good friend, the distinguished senior Senator from Hawaii [Mr. INOUYE].

I had the privilege last week to attend the presentation of the Reserve Officers Association Minute Man of the Year Award to Senator INOUYE. As a previous recipient of that honor, and as a colleague on the Defense Appropriations Subcommittee, I was pleased to share in the evening for Senator INOUYE.

During the event, I was particularly struck by the introduction of Senator INOUYE—describing his personal background—and the events that have shaped his life. It is a remarkable story, that more of our colleagues, and, as a matter of fact, the people of the United States, should know.

Following that introduction, I was then further moved by the Senator from Hawaii's own remarks, which were a clear, coherent, and meaningful discussion of the needs and priorities of our Nation's military.

For that reason, I ask unanimous consent that both the introduction of Senator INOUYE before the Reserve Officers Association and his remarks to that organization be printed in today's RECORD. I further urge all my colleagues to take note both of Senator INOUYE's background, and his thoughts on our national security responsibilities.

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

Mr. DODD. Mr. President, I would like to associate myself with the remarks of the Senator from Alaska. I realize it was a special occasion, but I, too, have a tremendous affection for the Senator from Hawaii.

INTRODUCTION OF SENATOR DANIEL K. INOUYE BY BRIG. GEN. WILLIAM BASNETT, NATIONAL PRESIDENT OF THE RESERVE OFFICERS ASSOCIATION, ON PRESENTATION OF THE MINUTE MAN OF THE YEAR AWARD TO SENATOR INOUYE, MID-WINTER CONFERENCE, WASHINGTON, DC, JANUARY 27, 1993

Senator Daniel K. Inouye was born in Honolulu, Hawaii on September 7, 1924, and was named after a Methodist minister who had adopted his mother.

Young Dan Inouye attended Honolulu public schools and earned pocket money by parking cars at the old Honolulu Stadium and giving haircuts to fellow students. Most of his earnings were spent on a flock of homing pigeons, a postage stamp collection, parts for crystal radio sets and chemistry sets.

This year, America will commemorate the 50th Anniversary of the Japanese attack on Pearl Harbor. On that fateful day, 17-year-old Daniel Inouye was one of the first Americans to handle civilian casualties in the Pacific war. He had taken medical aid training and was pressed into service as head of a first-aid litter team. He saw a "lot of blood" and did not go home for a week.

Eighteen-year-old Dan Inouye, a freshman in pre-medical studies at the University of Hawaii, enlisted in March, 1943, in the U.S. Army's 442nd Regimental Combat team.

Sergeant Dan Inouye slogged through nearly three bloody months of the Rome-Arno campaign with the U.S. Fifth Army. Early in the action, he established himself as an outstanding patrol leader with the so-called "Go-For-Broke Regiment", the famed rallying cry in infantry attacks.

Inouye's unit was shifted to the French Vosges Mountains and spent two of the bloodiest weeks of the war rescuing a Texas Battalion surrounded by German forces. The rescue of "The Lost Battalion" is listed in the U.S. Army annals as one of the most significant military battles of the century. Inouye lost ten pounds, became a platoon leader and won the Bronze Star and a battlefield commission as a Second Lieutenant.

Back in Italy, the 442nd was assaulting a heavily defended hill in the closing months of the war when Lt. Inouye was hit in his abdomen by a bullet which came out his back, barely missing his spine. He continued to lead the platoon and advanced alone against a machine gun nest which had his men pinned down. He tossed two hand grenades with devastating effect before his right arm was shattered by a German rifle grenade at close range. Inouye threw his last grenade with his left hand, attacked with a submachine gun and was finally knocked down the hill by a bullet in the leg.

Dan Inouye spent 20 months in Army hospitals after losing his right arm. He came home as a Captain with a Distinguished Service Cross (the second highest award for military valor), Bronze Star, Purple Heart with Cluster and 12 other medals and citations.

I'd like to note here that the heroics of the 442nd regimental combat team and the 100th battalion were a great source of pride for all Japanese Americans and also went a long way in soothing the post war attitudes of the American people toward Japanese Americans.

After earning his Law Degree at George Washington University Law School, he returned to Hawaii and served as a Deputy Public Prosecutor for the city of Honolulu. He broke into politics in 1954 with his election to the Territorial House of Representatives. He would later win election to the Territorial Senate.

After Hawaii became a State on August 21, 1959, Daniel Inouye won election to the United States House of Representatives as the new State's first Congressman. He was re-elected to full term in 1960 and won election to the United States Senate in 1962.

Three years after U.S. Rep. Inouye took the oath of office of the House, Congressman Leo O'Brien reminisced about how Inouye arrived on the national political scene. This is how Rep. O'Brien was quoted in the Congressional Record (Note: his comments came shortly after the third anniversary of Hawaii's admission to the Union):

"Tuesday last was the third anniversary of the admission of Hawaii. Today is the third anniversary of one of the most dramatic and moving scenes ever to occur in this House.

"On that day, a young man, just elected to Congress from the brand new state, walked into the well of the House and faced the late Speaker Sam Rayburn.

"The House was very still. It was about to witness the swearing in, not only of the first Congressman from Hawaii, but the first American of Japanese descent to serve in either House of the Congress.

"'Raise your right hand and repeat after me', intoned Speaker Rayburn.

"The hush deepened as the young Congressman raised not his right hand but his left and he repeated the oath of office.

"There was no right hand, Mr. Speaker. It had been lost in combat by that young American soldier in World War II. Who can deny that, at that moment, a ton of prejudice slipped quietly to the floor of the House of Representatives."

During his tenure in the Senate, Senator Inouye has:

Delivered the Keynote Address at the 1968 Democratic Convention, in which he appealed to racial understanding and progressive change through democratic institutions;

Gained national exposure and respect as a member of the Senate Watergate Committee in 1973 and 1974;

Served as the Third-ranking leader among Senate Democrats as Secretary of the Democratic Conference from January 1979 through 1986;

In 1976, appointed first chairman of the Senate Select Committee on Intelligence, a post he voluntarily relinquished after a two-year term;

In 1984, chaired the Senate Democratic Central American Study Group to assess U.S. policy and in that year also served as Senior Counselor to the National Bipartisan Commission on Central America (also known as the Kissinger Commission);

In January 1987, appointed chairman of the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition, which held public hearings on the Iran-Contra affair from May through August 1987.

Senator Inouye's present leadership positions include:

Chairman of the Select Committee on Indian Affairs, which looks into issues affecting Native Hawaiians;

Chairman of the Senate Appropriations Subcommittee on Defense;

Chairman of the Senate Commerce, Science and Transportation Subcommittee on Communications.

REMARKS BY SENATOR DANIEL K. INOUYE RECIPIENT OF THE 1993 MINUTE MAN OF THE YEAR AWARD, BEFORE THE RESERVE OFFICERS ASSOCIATION

FACING THE FUTURE: THE AMERICAN DEFENSE CHALLENGE IN THE POST-COLD-WAR ERA

I am honored to be here today to receive the Reserve Officers Association Minute Man of the Year Award.

In doing so, I wish to share with you some of my thoughts on the future of our national defense and the role the Reserves should play in maintaining that defense.

Today, nearly 50 years after the end of World War II, our Nation faces new and unprecedented challenges. Ahead are challenges to our economic security and overseas interests as potent and demanding as any which we have known.

From Iraq to Bosnia and from Iran to Somalia, the forces of instability and radicalism, born of oppression and poverty, are now in the ascendancy. In the wake of the Soviet Union's sudden and unexpected demise, unchecked nationalism has replaced monolithic communism as the primary threat to our national security.

These changes give rise to a host of questions which the American people, and we in the Congress, must confront, and answer as we move toward a new century. * * *

What should be the response of the United States to the rash of new regional conflicts flaring up around the globe.

How should our Armed Forces be postured for these new challenges.

What costs in both lives and treasure are we prepared to accept in order to maintain our Nation's global reach and superpower status.

These are not easy questions to answer, particularly for any student of history who knows the consequences of overextension for all great powers from Rome to Britain.

Nevertheless, ladies and gentlemen, it is my firm conviction that despite our diminished resource base and a mounting national debt, we can ill afford to retreat from the very responsibilities which have led to our greatness and which history, as well as our own self-interest, has bestowed upon us.

The fact remains that our vast global interests will forever require vigilant tending if they are to continue to nurture our society and our economy.

We are compelled by circumstance and by destiny to remain an active player on the world stage. Along with our Democratic allies we must ensure that the necessities of our existence—free trade, abundant energy supplies, and open lines of communication—remain outside of the control of tyrants.

I believe that for the foreseeable future, these national requirements—requirements which have molded our modern history—will remain a constant in the life of the American Republic. The end of the cold war may have forced a change in our strategic thinking; it has not altered the fundamental proposition that to protect our way of life and safeguard our democratic ideals, we must never cede control of our foreign policy to others.

From time to time, this may require that we shoulder special responsibilities in an effort to swiftly, and to our satisfaction, bring order and stability out of chaos in distant reaches of the globe. Others will expect us to do it. Our interests will demand that we succeed.

This is the burden of leadership. This is the American challenge. This is the reason we must be prepared for the prudent, efficient, and well-defined application of our military power.

Ladies and gentlemen, isolationism has never suited the American character. It didn't in the 1940's and it does not today. We are a bold, activist nation which takes pride in the moral and democratic impulses which guide our foreign policy. It is no more in our nature to shrink from villains like Saddam Hussein and Manuel Noriega than it was to shrink from the likes of Hitler, Mussolini, and Tojo.

The same is true when it comes to missions like humanitarian and disaster assistance, peacekeeping, or counter-terrorism. It is the United States, before any other nation, which rises to the challenge and lends direction, leadership, and dedicated manpower to the task at hand. And we get the job done.

It is a fact of our heritage—a current which animates our national spirit—that our example often serves as the standard against which the conduct of other nations is judged.

And no where is that force of our national character better personified than in the professionalism of our Armed Forces. The men and women of the United States military—active and Reserve—the soldiers, airmen, seamen, and marines—consistently distinguish themselves as warriors, as ambassadors, as nation builders, and as protectors of the peace.

Ladies and gentlemen, in accepting the Reserve Officers Association Minuteman of the Year Award, I am cognizant of the significant role played by reservists in every major conflict this Nation has known since its inception. Today, as part of the "Total Force" concept, reservists have become indispensable to virtually every aspect of our military operations, from combat support to special operations.

Improving the capability and integration of the Reserves in the new and leaner Department of Defense is the great challenge which lies before us.

I, for one, am committed to preserving the role, mission, and stature of our Reserve Forces.

We must ensure that the Reserves continue to obtain the latest and best equipment and training.

We must ensure that the men and women who voluntarily assume the burdens of our national defense are adequately compensated.

We must ensure that in the consolidation of our military we do not destroy the critical balance between Active and Reserve Forces.

We must fund unit strength and match unit capabilities for an efficient transition from peace to war.

A PROUD LEGACY

In answering each of these questions, in responding to each of these challenges, we will look to the Reserves, just as we always have.

We must never forget the courageous sacrifices made by those men and women, those citizen soldiers, whose line of service and duty to our country stretches back to the bridge at Lexington and the village commons at Concord.

President Franklin Roosevelt, the Commander in Chief during World War II once voiced his concern that, "Those who have long enjoyed such privileges as we enjoy forget in time that men have died to win them."

We will never forget.

We shall always remember.

I know, and you know, what has happened when we have forgotten, when we have allowed the lessons of history to slip into the dim memories of the past. Each time we have allowed the past to slip beyond recall it has returned to strike us.

On December 7, 1941 our military men at Pearl Harbor, at Hickam Field, at Schofield Barracks and at other locations in Hawaii and around the Pacific were taken by surprise by the suddenness and the ferocity of the attack which struck them that morning. Years of neglect and wishful thinking had left them unprepared.

We could ask, why did this happen. There are many answers, but perhaps the best is that America in 1941 had become a sleeping giant. The widely held view that America had been drawn into a European War in World War I led to the passage of a series of legislation known as the Neutrality Act. Clearly, it was reasoned, if America was to be neutral in any future war, America need not be armed. We sharply cut defense spending; we reduced our Army to a handful of units which marched around dusty parade fields on the Fourth of July and did little else.

When George Patton arrived at Fort Benning, GA as a brigade commander in the 2d Armored Division, he found most of his 325 tanks in disrepair and in need of nuts and bolts simply to hold them together. When ordered, the nuts and bolts never arrived, probably because the Army did not have them. So he bought them from Sears, Roebuck & Co.

Gen. George C. Marshall, soon to command the largest military operations in history has said of his pre-war command at Fort Leavenworth, KS, "I commanded a post which had for its garrison a battalion of infantry * * * but a battalion only in name, for it could muster barely 200 men when every available man, including cooks, clerks, and kitchen police were present for what little training could be accomplished." Thus the future commander of over seven million men and women spent the pre-war years aimlessly maneuvering 200 soldiers, cooks, and potato peelers about a duty parade ground in Kansas.

Our soldiers drilled with broom sticks and men carried cardboard tanks on their shoulders in maneuvers to practice combined arms exercises.

This was the sleeping giant which was awakened on the morning of December 7, 1941.

We emerged from World War II victorious; we were the most powerful nation on the face of the Earth. Too soon our people forgot that it was only after the loss of thousands of precious lives that we had triumphed. Again we disarmed. We sent our boys home; we disbanded units and closed down forts, bases, and airfields.

American forces under arms numbered some 12 million in 1945; by 1946, the number was down to 3 million; and, in 1947, it was nor more than 1.2 million—about one-tenth the size of the wartime force. President Truman's budget request for Defense spending was cut in half in 1949.

Then, at 4:55 in the morning of June 25, 1950 the forces of North Korea, equipped with first-line Soviet military hardware, attacked across the 38th parallel. You know what followed, hastily formed units of cooks, stevedores, and clerks were rushed from the eighth army in Japan to the Korean peninsula to stem the advancing tide.

Again we were unprepared. We did not expect—we did not predict—an attack on South Korea. Again, we ultimately triumphed. Again, it was only after the loss of thousands of our young men that we were able to win. Our forces were sent into battle untrained and ill equipped.

And what will we do now. Today, with the nuclear republics of the former Soviet Union in a state of virtual chaos, will we again so sharply cut our defense spending that our Army is reduced to a handful of units which—as their predecessors did in 1941—march around dusty parade grounds, unappreciated, ill-equipped, and unprepared.

No. Not, if I have anything to say about it. And, I do.

Not long ago, I was preparing an article on military history and learned that, although precise records are not available, it is estimated that the Continental Army under Gen. George Washington never exceeded a total strength of about 30,000 men—most of whom were activated militia.

Negotiations to conclude the War of Independence began in 1782 and culminated in the Treaty of Paris signed on the 3d of September 1783. Demobilization of the Continental Army began even before the British evacuated New York on 25 November 1783. By the 2d of June 1794—less than 1 year after the signing of the Treaty of Paris—Congress reduced the army to 80 men, 55 stationed at West Point, and 25 at Pittsburgh.

On August 24, 1812, the British burned the White House and sacked the Capitol Building.

So, the rush to reduce forces in peacetime is not a recent phenomenon. It has been with us since the birth of our republic. But, today we live in more dangerous and uncertain times.

The ultimate outcome of the struggle for democracy within the former Soviet Union is a great unknown. The possibility of another coup attempt—or several coup attempts—remains a concern. Political chaos may be followed by economic chaos. We do not know what will be the outcome.

The specter of Bosnia-Hercegovina lurks in the shadows of each of the new republics—a reminder that democracy often comes at a price.

And, even if the worst of our fears do not come to pass, Russia will still be Russia. The land mass of Russia will still extend from Europe to Asia. Russia will still be the second most powerful military force in the world.

Russian military power—even under a ratified START-II Treaty—will continue to pose the principal threat to our national security in the world. Its range of deployable forces, its multitheater combatant capability and its extensive industrial base, provide it with an unparalleled capacity to disrupt or destroy any attacker.

When all is said and done, Russia will continue to stand as the only country in the world capable of holding all of the territory of the United States at risk—this, despite its economic woes and its internal political tensions.

It is time that we ask our leaders not just to react to events as they unfold, but to guide them to our best advantage. We cannot allow our defense policy to be dictated by others; now, as never before, it must truly be the product of Presidential initiative and congressional support for active engagement in world affairs and not the withdrawal which has characterized U.S. policy in the past.

I must tell you, honestly, that for far too long, it has seemed to me that our Ship of State was adrift without a captain, and that decisions about our national defense were being made in a piecemeal fashion, without regard to long-term objectives.

It is my sincere hope that better days lie ahead.

Ladies and gentlemen, last week's Inauguration of our new President heralded the start of a new era in the history of our Nation and in the history of the Department of Defense.

I hope that Congress will be able to participate in a constructive and innovative dialogue with the administration on the great issues now before us.

Long ago, in the wartorn fields and mountains of Europe I learned never to fear the future, but to view with hope the prospect that tomorrow will be a better day. I believe that the President and the new Secretary of Defense share this vision and will be eager to work with Congress to fashion a new defense posture that continues to rely on strong involvement of the Guard and Reserve.

I am not going to pretend to know at this time the details of all of the force structure recommendations which I will make in the fiscal year 1994 Department of Defense appropriations bill. I will await President Clinton's budget presentation before making up my mind. I can tell you now, however, that I intend to ensure that the essential interests of the Guard and Reserve will be protected.

In conflict after conflict, you have exemplified the highest form of citizenship, leadership, and professionalism. You are the fiber and the sinew of our great Democracy. I am proud of the work you have done and the spirit in which you have done it.

Remain strong. Remain proud. Thank you again for allowing me to share in this great honor.

God bless you and God bless America.

TOWARD AN EXPANDED U.N. SECURITY COUNCIL: A SOUND FIRST STEP BY SECRETARY CHRISTOPHER

Mr. BIDEN. Mr. President, the great foreign policy challenge for the Clinton administration—a challenge that will not wait—is to advance energetically in the work of converting the new world order from concept to reality.

Under my own conception, as I set it forth in the Senate last year, the task of shaping a new world order comprises four elements:

The first, cementing the democratic foundation means promoting democracy everywhere we can, but especially among the major powers.

Second, forging a new strategy of containment means empowering multilateral agencies and regimes to stop the proliferation of weapons of mass destruction.

Third, organizing for collective security means strengthening the United Nations by expanding the Security Council and assigning to it certain predesignated military forces and facilities.

Fourth, launching an economic-environmental revolution means protecting and perfecting the free trade regime by completing the new GATT agreement, and then acting to reorient the world economy to environmentally sound methods of production and consumption.

My focus today is on the third element, organizing for collective security, for I am gratified to see that Secretary of State Christopher, in his first week in office, has signaled his clear intention to move boldly in pursuing this critical objective.

Secretary Christopher's announcement that the United States will seek an expansion of the permanent membership of the U.N. Security Council involves no mere technicality. He has

identified and accepted an immensely difficult task that is a prerequisite if we are to empower the Security Council to exercise the police and enforcement powers set forth in the U.N. Charter but rarely used in the last half century.

A reordering of membership on the Security Council, the most prestigious and potent of U.N. organs, is necessary because the present structure of permanent membership—America, Britain, France, Russia, and China—reflects the outcome of World War II and is, increasingly, a glaring and debilitating anachronism.

Since then, Japan has become an economic superpower and Germany the dominant power in an increasingly integrated European Community that did not then exist. From a global perspective, these nations, together with the United States, are today the leading powers of the industrialized North.

India, a colony when the Second World War ended, is now the world's largest democratic state and—with one-sixth of all humanity-the leading voice of the scores of less-developed nations that comprise the south.

The absence of such countries from the organ embodying the United Nation's most solemn responsibilities has become an unacceptable anomaly in an organization we must seek to empower.

Negotiation of membership changes will be arduous because many formulas are conceivable, and national power and prestige are at stake. But the clear goal will be to reconcile two objectives: We must enhance the Security Council's stature through a broadened membership, while avoiding the chronic stalemate that could result from increased participation.

As we approach this change, let us match our understanding of the difficulties involved with a clear recognition of the gains. The inclusion of other major nations would eliminate obvious anomalies between actual world power and the institutions we must depend on to channel that power. But more than that, the very process of restructuring the Security Council can be used to promote an objective central to our other security aim in shaping a new world order: The implementation of a new strategy of global containment, directed not at a single nation or ideology but at weapons of mass destruction.

At present, as it happens, the five permanent members of the Security Council are the world's five acknowledged nuclear powers. Yet nuclear weapons—as the case of the now-defunct Soviet Union demonstrates—confer power in only the most limited sense.

As the Security Council's permanent membership is broadened to include such nonnuclear states as Japan and Germany—and border-line nuclear states such as India—the delegitimization of nuclear arms should be made a formal and affirmative policy. The price of new membership on the U.N. Security Council should be an unconditional pledge to remain or become nonnuclear.

With this policy, we accomplish two objectives simultaneously: modernizing the Security Council's membership and further delegitimizing nuclear weapons as the currency of international power.

In the case of Japan and Germany, this will entail only the perpetuation of existing policy and treaty commitments. For India, it would mean acceding to the Nuclear Nonproliferation Treaty, accepting rigorous international inspection of its nuclear facilities, and giving up an ambiguous status that has, in reality, provided little benefit to that nation and entailed much risk.

The inclusion of Germany, Japan, and India as permanent nonnuclear members of the Security Council would validate new conceptions of power in the post-cold war world.

India's acceptance of membership under the nonnuclear condition would have the added advantage of ending South Asia's dangerous nuclear arms race, since Pakistan has already agreed to sign the NPT if India will so agree. India's accession to the Security Council could thereby become a catalyst for a breakthrough on security problems that have plagued, and squandered the resources, of the Indian sucontinent.

Catalyzing this crucial transition will require the good offices and the sustained leadership of the United States. I congratulate Secretary Christopher for acting so promptly to express the sense of magnanimity and purpose befiting the United Nation's predominant power and for wasting no time in beginning an historic task.

GET OUT AND VOTE DRIVE

Mr. MOYNIHAN. Mr. President, I recently received the following information from the New York chapter of Hadassah which I thought might be of interest to the Members of the Senate. I accordingly asked unanimous consent that this report be printed in the RECORD.

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

New York Chapter of Hadassah is proud to report that, during the 1992 Election Campaign, it conducted a highly successful, nonpartisan "Get Out and Vote Drive." The goals of the project, chaired by New York Chapter's National [Hadassah] Young Leaders' Advisory Council (NYLAC) Representatives Miriam Davidson and Nancy J. Brown, were to register voters, encourage voting and stimulate voter awareness.

Our activities were designed not only to reach our own membership but were also organized for the benefit of all New Yorkers. In-reach activities included nonpartisan reports and presentations at group- and Chapter-level meetings, constant reminders about the significance of registration and voting and making registration forms readily available. Brochures specifically designed to strengthen registration and voter turnout among the Jewish community in particular were distributed to our members as well as to local synagogues. The concomitant community out-reach effort brought our members out on the street to man voter registration tables at various, highly trafficked locations in Manhattan, including street fairs. Our public relations campaign engendered radio, print and television publicity, including a radio talk-show interview. To culminate the project, an exciting Election Night party for singles was held in the name of Vanguard (Hadassah's Jewish singles' outreach group); attendees socialized as they followed televised election returns.

During the entire project, signatures from New Yorkers were garnered on a "We the People are Registered and Voting in the 1992 Election" proclamation, to be submitted in bound form to President Bill Clinton. The purpose of this proclamation is to demonstrate New Yorkers' involvement and interest and to urge the new President to be attentive to our urban needs.

Hadassah is the Women's Zionist Organization of America. It should be noted that all of our members are volunteers and that the participants in NY Chapter's "Get Out and Vote Drive" ranged in age from 25 to 85. The efforts of all the volunteers for this project are applauded, with particular acknowledgement made to the following participants: Theda L. Zuckerman, President of NY Chapter, and Mallory J. Stevens, American Affairs Chair and member of the Executive Board, who served as advisors; and Miriam Marcus, Treasurer and member of the Executive Board, who organized weekday volunteers.

Our "Get Out and Vote Drive" succeeded in registering 4,000 New Yorkers, many of whom had never before voted but who claimed to have been inspired by our efforts. We are very proud to have done our part to help foster the democratic process and to have played some role in achieving a historically significant voter turnout in New York.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FAMILY AND MEDICAL LEAVE ACT OF 1993

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 5, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 5) to grant family and temporary medical leave under certain circumstances.

The Senate proceeded to consider the bill.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me begin at the outset by thanking the majority leader and the minority leader for working out the scheduling of

this legislation. This will be the first piece of legislation to be considered by this body in the 103d Congress. And after 7 long years of being involved in this journey, I stand here for the third time, Mr. President, hopefully with the same success that we have had on the previous two occasions where this legislation has been adopted—in the first instance, by a voice vote of the U.S. Senate several years ago, and on a second occasion, a year ago by a substantial vote of almost 75 Members of this body.

Unfortunately, in both previous cases the legislation was vetoed by President Bush. And although this body, the Senate, was able to override the Presidential veto last year, the other body, the House of Representatives, was not. And so we find ourselves back here again to consider for the third time family and medical leave legislation.

So I thank the majority leader and I thank the minority leader for their efforts. I also want to thank the distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY of Massachusetts, who has been an unfailing ally in this effort, a strong supporter. Without his backing at the full committee, we would not have been as successful in the past occasions. We have actually on four different occasions sent the legislation from that committee.

I feel, Mr. President, sort of like that mythological figure of Sisyphus who is doomed to roll the rock up to the precipice only to have the rock roll back again. My hope is that on this occasion the predictable outcome of Sisyphus' efforts will be changed and that in face we will roll that rock over the brink and the family and medical leave legislation will become the law of the land.

So I am grateful to Senator KENNEDY for his efforts in the committee.

I would also be remiss if I did not emphasize and recognize the efforts of my Republican colleagues who have been tremendously supportive and helpful in framing this legislation. This is not a partisan bill. It has never been a partisan bill and it is not today as we begin this debate.

On the floor with me is today, Mr. President, is Senator BOND of Missouri who has been a tremendous supporter and who has provided invaluable input into this legislation.

Senator COATS of Indiana has been tremendously helpful, Senator PACKWOOD, and numerous other Members. A third of the Republican conference are cosponsors or supporters of this legislation. So it is truly a bipartisan effort.

And I am pleased, as I say, in being joined in sponsoring this bill by Senators KENNEDY, PACKWOOD, MITCHELL, JEFFORDS, FORD, HATFIELD, BOND, COATS, D'AMATO, CHAFEE, and more than three dozen other Members of this institution.

Almost 3 months ago, Mr. President, 104 million Americans stepped into polling stations across this country to cast their ballots in the 1992 election. Some, as we all know, voted for Democrats, others for Republicans, and in the case of the Presidential election a third choice, as well. Many supported independent and third-party candidates, but they all had one thing in common: they were sick and tired of politicians who think more about partisanship than leadership. They were frustrated by a Government that seemed to care more about the lobbyists than working people in this country. They were disgusted by a system in which gridlock and political sideshows take the place of real solutions to the real problems that working people face every single day of their lives.

Mr. President, today we begin the final chapter—at least I hope the final chapter—in a 7-year effort to establish a national leave policy for working families.

But, just as important, this is the first chapter in the most critical test of all: Whether we can really make government work for the people we were elected to serve. The Family and Medical Leave Act is what government should be about. It is what the American voters have sent us here to do. It is a test of our will to set politics aside and to show the people of this country, both in our words and our deeds, that government can be a positive force in their lives.

In America today, life is a family struggle to balance the competing demands of work and family responsibilities. Two-thirds of all women with children work full time today. One quarter of all children in the United States live with single parents. Millions of three generation households now care for elderly parents and almost 1 million women care for their parents and their children while working full time. Those are the demographic changes.

These are people like Eva and Michael Skubel from Moodus, CT. Their 10-year-old daughter, Jacinta, who suffers from a rare brain disease, was hospitalized several years ago while Eva was pregnant with their second child. But when Michael asked for 5 weeks of leave to be with Jacinta in the intensive care unit, he lost his job, and the family's income and health insurance were all eliminated at the same time. Now, after years of struggling to make ends meet, Eva Skubel works at Newington Children's Hospital in Connecticut, counseling families that face similar predicaments every single day.

Carmen Maya lives in Chicago, IL. A single mother of three, Carmen lost her job of 19 years as a pharmacy technician when she needed leave to recover from a difficult pregnancy and to care for a newborn child with Down's syndrome. After two decades of bringing home a paycheck, Carmen was forced onto the welfare rolls just to feed her children, because she could not get leave to be with a child with Down's syndrome.

Sandra Seymour is from a small town in Wisconsin. When her 82-year-old father had two serious heart attacks, Sandra's employer refused her request for 1 week of unpaid leave to care for her parents. Ironically, Sandra was offered 3 days' leave should her father die, but no time off for the chance to comfort her mother and to help nurse her father back to health.

For these families and thousands like them, the Family and Medical Leave Act provides an answer—it is not a complete answer, it is not a perfect answer, but it is an answer—to short-term job security in times of family or medical emergency. If you need time off to care for a new child—or to care for a sick child, spouse, or elderly parent—your job and your health insurance will be there when you return. It is 1993. It is time to recognize that this concept is deserved.

The bill before the Senate today is virtually identical to the conference report that was vetoed last year, with minor technical changes to facilitate administration and enforcement of the new law. S. 5 provides up to 12 weeks of unpaid, job-protected leave per year—with health insurance coverage—for the birth or adoption of a child, or the serious illness of an employee or an immediate family member. The bill exempts small businesses and covers only employers with 50 or more employees. In order to be eligible for leave, employees must have worked 1,250 hours over the previous 12 months and at least 1 year for that employer.

Medical certifications are required to prove that an employee must take leave in order to deal with a serious medical condition.

S. 5 enforcement procedures closely parallel the longstanding Fair Labor Standards Act enforcement regime which was enacted in 1938. So we are not creating any new bureaucracies, no new agencies. We are following existing, standing law.

Through 7 years of scrutiny, including passage twice by Congress in the last 3 years, we have amassed strong and convincing evidence that family leave is not only good for working families, it makes good business sense as well. By the way, yesterday the National Retail Federation strongly endorsed this legislation at a press conference with Senator BOND of Missouri, and myself. The National Retail Federation employs 20 million people and it represents 1 million businesses in this country. They did not reach their decision lightly. Many of these are smaller businesses, and they stand strongly and squarely behind this bill. It is not only good for families, they said, it is good for their businesses. And if the National Retail Federation,

which represents almost 20 percent of the work force in this country and a million employers is comfortable with this bill, then my colleagues ought to be as well.

A 1990 study by the Small Business Administration under the Bush administration concluded:

The net cost to employers of placing workers on leave is always substantially smaller than the cost of terminating an employee.

The SBA study commissioned and paid for by the previous administration pegged the cost of family leave at less than 2 cents per covered worker per day without ever factoring in employer savings from reductions in termination costs. A revised analysis of this study, Mr. President, last year concluded that more than 300,000 people had lost their jobs since a similar bill, the family medical leave bill, was vetoed in 1990 because they had no job-guaranteed medical leave. This 1992 report also found that mid-size and large businesses would have saved nearly $500 million in unnecessary hiring and training costs for new workers had this bill become law 3 years ago: 300,000 jobs, $500 million, an SBA study saying that would have been the savings in employment in dollars and cents had this bill become law when it was first passed by the Congress in 1990.

Another recent study, Mr. President, commissioned by the Ford Foundation, not exactly what one would think of as sort of a liberal union think tank, examined employer practices in four States, and they have enacted family leave laws. Nine out of ten employers in the Ford Foundation study reported that the laws were easy to implement and that they were not forced to provide fewer health benefits. Eight out of ten employers reported no increase in training or unemployment insurance costs.

Mr. President, further individual companies report tremendous savings with leave policies already in place. The Aetna Life & Casualty Co., one of the largest employers in my State of Connecticut, reported last year that its family leave program, which they have adopted in the last several years, in their conclusion is saving them $2 million annually in reduced employee turnover, lower hiring and training costs.

AT&T, Mr. President, recently adopted a family and medical leave policy. They have concluded that it is saving them $15 million each year in replacement costs alone. My point is, Mr. President, that every piece of data that has been collected by objective groups that do not have any particular ax to grind have concluded that the net cost to employers and businesses is positive, whether it was the Ford Foundation, the Small Business Administration, or a Republican administration that vetoed the bill, I might add, concluded that the costs were substantially going out and hiring someone new. Of course, the hard evidence and data by businesses and companies that are not thinking about what it must be like to have family and medical leave policies but are doing it every day concluded that there are real cost savings for them as well.

Mr. President, the Family and Medical Leave Act gives us the opportunity to respond in a very tangible way to a very real problem that real people face all over this Nation: The daily struggle to balance work and family responsibilities. It is an opportunity to symbolize with concrete action the end of Government gridlock and that Republicans and Democrats can work together for the common good. It is an opportunity to show that, as we begin to tackle the economic challenges of the 21st century, Government and business can form a real partnership to invest in both a productive work force and strong families at the same time.

Mr. President, this legislation touches on all of the themes that people care most about and are worried about most today: Holding their families together, the incredible pressures today, the incredible pressures on families. This is not going to solve every one of those problems but at least the Government of this country, the Congress of the United States is recognizing it and trying at least in some fact situations to make it possible for those families to be able to be together. It also recognizes the critical issue of health care. It says that if you have a need to be away on leave without being paid that we are going to maintain your health insurance. This is not a major health care reform issue. But it is one of the things that people worry most about when they lose their job at the very time they need the health care for a medical crisis, the illness of a child, the illness of a spouse, or a parent or themselves. At the very moment they need the health care the most, if they need the leave, they run the risk of losing it. What a cruel contradiction, that you lose your job and you lose your health care at the very moment you need those resources in order to keep your family together.

While there has been a lot of talk over the last couple of weeks about getting about the business of things that people care most about in this country, we are doing it, with the initiation of this legislation as the first bill before the Congress.

Mr. President, let me just take a minute, if I can, because I know there will be those who will raise arguments that we have heard over and over again, but I just want to touch on some of them very briefly and will come back to some of them again. One of the first arguments we will get is that this is already happening out there; let businesses do this on their own; that if government would stay out of it that they will start to do this; that it will begin to take care of the problem of new births or adoptions on their own. I wish that were the case. And, Mr. President, were it the case, I would not be standing here offering this legislation on the floor. But let me share with my colleagues exactly what has been happening over the last several years.

Type of leave: How many employers provide mothers with leave for a newborn child in this country? According to the Bureau of Labor Statistics, only 37 percent of all businesses in this country provide leave for a newborn child—37 percent, one of the most common sense, fact situations one could think of. How many fathers get leave at the time a child is born? Eighteen percent, according to the Bureau of Labor Statistics.

How many parents can take leave if they decide to adopt a new child? I do not know how many of my colleagues this morning saw on one of the morning news programs where a couple in the Washington area adopted four young girls, four young quadruplets and they took in all four children. They already have two sons, limited incomes, and they decided they deserved to be together, to be a family. They ought to be able to have the leave now to put that family together. Yet only 28 percent can do that.

How many employers provide leave when a child is ill and sick, a serious illness? Eighteen percent of employers. If you go up to them and say I need some leave to be with my sick child, 18 percent provide it, according to the Chamber of Commerce study, I might add.

Elder care, how many of you get any time off to be with a very sick parent where you have to be there? Fourteen percent, according to Buck Consultants. Here you see it, Mr. President: 37 percent on births, 18 percent for fathers, a fraction on adoption, child's illness—there is a need, Mr. President, that I think has been graphically pointed out.

Cost to business: I have been over already some of those statistics. I know I am going to hear this is an outrageous cost to business. In fact, a new General Accounting Office study raises it a bit. When we asked the GAO a few years, it was something like $6.50 a year. They now raise it to $9.50. In a most recent analysis, they say 80 percent of that increase is due to rising health care costs and the other 20 percent has to do with an explosion or 200,000 more people in the work force. Still, $9.50 is not an outrageous cost to be asking people to bear.

So we have already established that cost, and the difficulty of implementing it is hardly the issue.

We have been told in the past that this is going to make us less competitive with other nations in the world; how are we going to compete in the

global marketplace? Let me quickly share with my colleagues what some of our competitor nations are doing. Roughly 127 other nations in the world have family and medical leave policies in place, Mr. President. Consider who our major competitors are and what they do.

Canada provides 17 to 41 weeks of leave; 15 weeks you get 60 percent of your salary. Ours is unpaid leave, by the way. France, 18 weeks; 16 weeks you get 90 percent of your salary. Germany, 14 to 26 weeks of leave and for 14 to 19 of the weeks, you get 100 percent of your salary during that period. Japan, a major competitor, 12 weeks of unpaid leave and you get 60 percent of your salary during the leave.

Mr. President, when people say we cannot compete in the global marketplace, consider what our competitors are doing and maybe one of the reasons we do not do as well is because of the understanding of how important it is to have a work force that is respected by its employers and understands their needs.

Last, Mr. President, we will be told this is a yuppie bill; this is only good for upper-income people, not for lower-income people. Again, Mr. President, the details and the information we have collected in over 20 hearings just debunk that argument completely. The least privileged, the most vulnerable workers are particularly likely to be without employer job-protected leave. A study by the Institute for Women's Policy Research, a sample of female employees who gave birth, shows the annual average earning of those without leave was $10,000 compared to over $16,000 of those who had leave policies in place.

Employees without adequate leave suffer increased unemployment. I will at a later date go into the details of this. When a child arrives, when a family member is ill, when an employee is temporarily disabled, the employees have no choice: He or she must be absent from work. With family and medical leave, as soon as the employee returns to work, his job is there. Lower-income employees who have the fewest resources to cushion the financial loss of absence from work are most in need of job-protected leave and most in need of Government's assurance that they can get it. So we will come back to some of these arguments at a later date.

But after 20 hearings and for 7 years, twice passing the Congress of the United States, we have been over all of these arguments. I think the evidence should speak for itself in handling them. But my hope is that this week we will focus on this issue and we will not bring up a lot of irrelevant amendments to this legislation. It deserves to be considered in its own right.

Hopefully, we will send a message to the American public that we heard them in this election; that we care about what happens to their families; that we care about what happens to their health care; and that we care about what happens to their jobs.

Again, I thank my colleagues for being involved in this effort over so many years and for making it possible to be where we are today.

Mr. President, at this juncture I ask unanimous consent to include in the RECORD an editorial from the Washington Post this morning entitled "Finally, Family Leave."

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

[From The Washington Post, Feb. 2, 1993]

FINALLY, FAMILY LEAVE

The Senate will begin consideration today of the Family and Medical Leave Act, which was passed by two successive Congresses and vetoed twice by President Bush. The House will take up the bill tomorrow. While the dispute over gays in the military may tie up final action on the measure for a while, passage in both houses is considered certain. The bill may be the first piece of major legislation signed into law by President Clinton, and it is a good place to start.

Much was heard during the campaign about family values and the difficulties faced by young parents trying to hold down jobs while caring for newborns, sick children and sometimes parents, and coping with crisis when a spouse is ill. The Republicans, in fact, acknowledged that these are the kinds of problems that are widespread and create deep anxiety in many American homes. But they made the mistake of refusing to get behind a solution that involves employer mandates and of not proposing workable alternatives. The issue did not vanish with the vetoes. Backed by hundreds of organizations as diverse as Catholic Charities and the National Abortion Rights Action League, the bill picked up momentum after the election and has been placed on a fast track.

The proposal is uncomplicated. Employers of 50 or more people would be required to grant up to 12 weeks of unpaid leave to enable an employee to care for a new baby or an ill family member. Experience in companies that already have such policies indicates that less than one percent of the work force uses the benefit in any given year (the leave, after all, is unpaid), that almost all users had new babies and that few took the whole amount of time authorized. Moreover, some employers claim actually to have saved money by avoiding new hiring and training costs.

Employer mandates are nothing new, and most of them—Social Security, for example, and workers' compensation—involve direct money costs to the employer. In another generation, Congress required employers to rehire those who had to leave jobs in a national crisis. Veterans, some away form civilian work for years, were guaranteed a place when they returned. Fortunately the country does not now face a crisis of the magnitude of World War II. But for families, the loss of a job because of a health crisis or the birth of a child can be devastating. The legislation about to be passed should remove that fear and provide American workers the protection that today's families need and deserve.

Mr. DODD. Last—and I should have mentioned this at the very outset—one of the differences now is that we have a President who cares about this issue.

One of the reasons President Clinton prevailed last fall is because he emphasized so strongly his strong support for families, for providing for health care for families in this country, and understanding their needs.

I am pleased, to include in the RECORD a letter from President Clinton strongly endorsing this legislation. He says:

DEAR MR. CHAIRMAN: Our Government must dedicate itself, first and foremost, to the interests of what I have called the forgotten middle class—the people who have worked harder for less, and who have had to try and make a living while raising a family.

For that reason, I strongly support and will sign the Family and Medical Leave Act. It is important that this bill reach my desk quickly, with no weakening amendments added to the original bill as reported by the Committee on Labor and Human Resources.

Parents should not have to choose between the jobs they need and the families they love. Today, many companies provide maternity leave and leave to care for sick family members, but too many do not. This failure to put people first saps productivity and ultimately hurts our economy.

For years we have known that we need this legislation. It has been passed by Congress before, with strong bipartisan support, only to be vetoed. We have no excuse for further deadlock and inaction. I look forward to signing the Family and Medical Leave Act. It would be a fitting indication that the Government has gone to work for the American people.

With best wishes,

Sincerely,

BILL CLINTON.

Mr. President, I ask unanimous consent that there be printed in the RECORD a letter from the new Secretary of Labor, Bob Reich, indicating his strong support for the legislation.

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

DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, February 1, 1993.

Hon. GEORGE MITCHELL,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: I am writing to urge you to act quickly upon a critically important bill, S. 5, the "Family and Medical Leave Act of 1993." The bill would require employers with 50 or more employees to provide up to 12 weeks of unpaid leave for "eligible employees" to use for the care of a newborn or newly adopted child, for the care of a family member with a serious medical condition, or for their own illness. It also requires employers to maintain health insurance coverage and job protection for the duration of the leave, and sets minimum length of service and hours of work requirements before employees become eligible. Similar provisions also apply to Federal and Congressional employees.

The Administration strongly supports the enactment of S. 5, as reported by the Senate Labor and Human Resources Committee. This legislation is needed to better balance the family and medical needs of the American worker with the demands of the American workplace, and to enhance job security and worker productivity.

Over the past 25 years the American family and the American workplace have undergone unprecedented changes, which have created a compelling need for Federal medical and family leave legislation to protect American workers. First, economic necessity and changing cultural standards—as well as greater opportunity—have resulted in large numbers of women entering the work force as contributors to family income or as sole heads of households. In 1965, about 35 percent of mothers with children under 18 were labor force participants. By 1992, that figure had reached 67 percent. By the year 2005, one of every two people entering the workforce will be women.

Also, the decline in real wages has made two incomes a necessity in many areas of this country, with both parents working or looking for work in 48 percent, or nearly half, of all two parent families with children in the United States. Single parent families have also grown rapidly, from 16 percent of all families with children in 1975 to 27 percent in 1992. Finally, with America's population aging, more working Americans are finding the need to take time off from work to attend to the medical needs of elderly parents.

As a rising number of American workers must deal with the dual pressures of family and job, the failure to accommodate these workers with adequate family and medical leave policies has forced too many Americans to choose between their job security and family emergencies. It has also resulted in inadequate job security for working parents and other workers who have serious health conditions that have prevented them from working for temporary periods. It is simply unfair to ask working Americans to choose between their jobs and their families—between continuing their employment and tending to their own health or to vital needs at home.

There also exists a direct correlation between stability in the family and productivity in the workplace. This legislation will encourage the development of high-performance work organizations. Workers who cannot take a reasonable amount of time off from work to attend to family emergencies can be expected to quit their jobs or to be absent without leave, creating unnecessary and costly job turnover, and higher absenteeism in the workplace. It is only when workers can count on a commitment from their employer that they are able to make their own full commitments to their jobs. The record of hearings on family and medical leave is full of testimonials from some of America's most respected business leaders on the powerful productive advantages of stable workplace relationships, and on the comparatively small costs of guaranteeing that those relationships will not be dissolved while workers attend to pressing family health obligations or their own illness.

While a number of enlightened employers have already recognized the benefits to be realized from a system providing for medical and family leave, data from the Bureau of Labor Statistics on private business establishments support the conclusion that private industry on the whole is not sufficiently meeting the family and medical leave needs of its workers. These data showed that, in 1991, for private business establishments with 100 workers or more, 37 percent of all full-time employees (and 19 percent of part-time employees) had unpaid maternity leave available to them, and only 26 percent of all full-time employees in such establishments had unpaid paternity leave available. The most recently available data for smaller business establishments (those with fewer than 100 workers) are for 1990, and show that only 14 percent of all those employees had unpaid maternity leave available, and only 6 percent had unpaid paternity leave available.

There is a vital role for government to play in a partnership with the private sector for transforming the American workforce, and a cost to be paid if government does not get involved. We all bear the cost when workers are forced to choose between keeping their jobs and meeting their personal and family obligations. When they must sacrifice their jobs, we all have to pay for the essential but costly social safety net. When they ignore health needs or their family obligations in order to keep their jobs, we all have to pay more for social services and medical care as neglected problems worsen.

Government must help to extend the ethic of long-term workplace relationships beyond the better-educated, better-paid segment of the workforce where high-performance workplaces have already taken root, and where family and medical leave is relatively common. This legislation will serve as a strong signal that all workers, not just the top tier, must be tied into ongoing networks of cooperative learning and teamwork.

Currently, the United States is virtually the only advanced industrialized country without a national family and medical leave policy. By enacting S. 5, the United States will join most of its keenest global competition in recognizing the social and economic benefits that family leave policies provide to workers and employers.

We also believe that this legislation will accomplish its objectives without imposing excessive costs on businesses. The General Accounting Office has estimated that this legislation will cost those businesses covered by the bill about $5 per year per employee.

The time has come to provide Federal family and medical leave protection for America's workers. Accordingly, for the reasons stated in this letter, the Administration strongly supports this legislation, and strongly supports the enactment of S. 5.

The Office of Management and Budget advises that there is no objection to the submission of this report to the Congress and that enactment of S. 5 would be in accord with the program of the President.

Sincerely,

ROBERT B. REICH.

Mr. DODD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, it is very clear that S. 5 is going to pass and be signed into law. I think there is no doubt about that. There is not going to be gridlock. There is not going to be any attempt to stall passage of this legislation.

I would like to compliment, as a matter of fact, Senator DODD, who, as chairman of the subcommittee on family and children's issues for the Labor Committee, has pursued with dedication and perseverance over the last 6 or 7 years this concept.

But also, Mr. President, I cannot stand here today without raising some serious concerns I have about this legislation. I do not believe there is anyone in the Senate or in the other body of Congress who would disagree with the concept of family and medical leave legislation. We all recognize the importance of workers having the time to be off to cope with illnesses in the family, or newborn children. I do not think anyone would disagree with the importance of that concept.

But where I find there are some troubling questions is with who should set the framework, who should be saying how much time and when an employee should take time to do those things which I think every employer and employee should recognize is of importance. I do not believe the Federal Government should be setting those parameters.

I should like to explore for a while this morning why I think we must be cognizant of the larger unforeseen and unintended consequences of Federal involvement of this kind.

Senator DODD mentioned that the National Retail Federation has endorsed S. 5 and this initiative. I think that is fine. I am delighted to see that. Business Week has editorialized in support of family medical leave for a couple of years. I think if the Business community chooses to do this, we can all be very pleased. Those kinds of initiatives are important, and I hope all members of the National Retail Federation are doing just that.

But as we look at this, we have to recognize there will be unintended consequences and there will be costs. I think it is very difficult for us to debate the costs because there are different figures—GAO has just revised theirs—as Senator DODD mentioned.

But as we look at comprehensive leave programs, we have to realize one size does not fit all and that many businesses have to approach problems on a case-by-case basis. Employers have acknowledged the increasing demands on working parents and the commitment involved in caring for a newborn and the pressures workers face when an illness strikes at home.

I personally am very pleased that part of this legislation takes into account the importance of being able to participate in the care of elderly parents. In many ways, that is just as important to employees in the work force today as the problems they face with newborn children.

Unfortunately, not all employers have recognized these needs. That is true. But for the productivity of the work force, more and more employers do recognize that it is becoming essential. And just because some have not recognized the importance of this, does this mean that Congress must mandate a response? Should we require all employers with 50 or more workers to offer no less than 12 weeks of unpaid leave? As a matter of fact, Mr. President, by setting the threshold at 50 or more employees, we leave out half of the work force. So there are a large

number, many of those most in need of this type of assistance, who would not even be covered.

I have struggled with this issue, as have many of my colleagues, for the last 7 years, and I always reach the same conclusion. I believe companies should offer leave to their workers, but I cannot support a Government-mandated leave.

What concerns me most, Mr. President, is the impact this legislation will have on jobs. This country is still facing a severe job crisis. Our economy is simply not creating new jobs. As I have visited with people, job security is still one of their major concerns.

The unemployment rate has now remained above 7 percent for almost a year. Over 9 million people are out of jobs and looking for work, over a million have stopped searching, and 6 million workers with part-time jobs want to work full time. These numbers are very troubling.

The State of Connecticut, as well as the State of Kansas, recently have taken major blows as far as job losses in our States. Not a week has gone by without announcements of major layoffs, whether it is from Sears or from Boeing or from McDonnell Douglas. We simply have to recognize that workers want some sense of security in knowing what their future will be in the job market.

A headline in the Kansas City Star the other day said it all: "Layoff Plans by Boeing Terrify Kansas." People in my State and all across the country are worried about keeping their jobs—almost, more at this point I would suggest, Mr. President, than whether they are going to be able to have the time off to take care of problems, serious problems that may be affecting their families as well.

Even employee-friendly companies, as Labor Secretary Reich calls them, blue-chip companies like Xerox, IBM, and Kodak are cutting back their work forces. Why is this happening? Certainly, there are problems unique to each industry, but the overall trend is clear. If you want to cut costs, cut jobs. Like it or not, it is becoming standard practice for companies to reduce their work force to the bare minimum necessary to remain profitable.

Yet, in the face of this crisis, we now want to make it more expensive and more costly for companies to hire new workers. When this bill becomes law, businesses will have one more reason to postpone new hiring, one more reason to justify additional layoffs.

I, Mr. President, do not want to imply that this bill is going to add to the turmoil in the industry. But I clearly do believe it is a factor, and it is a factor that we cannot overlook as we lay out what our responsibilities are in passing this legislation.

Make no mistake about it, mandating such a leave will have a cost.

Estimates of the cost of S. 5 have varied from $1.2 billion to a total cost of almost $8 billion annually. I do not think we really know.

Nevertheless, of course, many of my colleagues will scoff at the notion that S. 5 will have any impact on jobs. It is frequently mentioned that other countries, as Senator DODD just said, have significantly more supportive family leave policies than the United States. But I would also suggest that they also have less productivity than the United States and far higher unemployment rates.

France has an unemployment rate of 10 percent; Great Britain, 11 percent; Spain, 17 percent; Italy, 11 percent; Germany is losing jobs at a rate of 100,000 jobs a year because of high labor costs.

Mr. President, I would suggest that we do not necessarily want to emulate what other countries are doing. I think we have to look at what best fits our job market today.

While the figures that have been given for the costs to business of continuing health care coverage during leave as mandated by S. 5, and as I think certainly is fitting, they really do not take into account the costs of hiring temporary replacements, the loss of productivity, the cost of meeting the new paperwork requirements of the bill, or the costs of fending off new litigation that I believe this bill will generate.

More importantly, they do not tell you what the costs will be to workers, not just in terms of job loss, but also in the form of reduced benefits, from health care to the elimination of existing paid leave programs which might well take effect if, indeed, we mandate an alternative of 12 weeks of unpaid leave. Unfortunately, the burdens of this bill will fall unevenly, mainly on women and those who can least afford it.

We cannot avoid the fact that when we mandate a benefit it will increase benefit costs which in turn will have a direct impact on the labor market, either curbing wage increases, reducing other benefits, or discouraging the hiring of new workers.

In the editorial in the Washington Post this morning, which endorses S. 5, it mentions that we have enacted employer mandates before, such as Social Security and workers compensation. May I just comment a minute on workers compensation?

Like many other States, Kansas is struggling with how to meet the costs now of workers compensation, and as an example, the brother-in-law of a friend of mine was just told by his company that there would be no wage increase for 3 years because of the escalating cost of workers compensation.

Those are the tradeoffs, Mr. President, that I think we must take into account when we look at actions that we take here.

If you do not believe me, I would just like to suggest that it is worth noting what one of the Nation's leading economists has said. Lawrence Summers was last week nominated by President Clinton to be the Under Secretary of the Treasury. He supports S. 5 in mandating family medical leave, but he said, while teaching at Harvard, in an article entitled "Some Simple Economics of Mandated Benefits," that the most obvious problem with mandating benefits is that they can only help those with jobs.

It is ironic for an administration that ran on a platform of job creation, that the first piece of legislation that will be passed will do absolutely nothing for the chronically unemployed of this country. In fact, it may even hurt their chances of landing a job.

Professor Summers acknowledges, as every other economist will tell you, that mandating benefits will result in either lower wages or lower employment. If wages are inflexible, as they are now, Professor Summers argues that a mandated benefit is likely to create more unemployment.

Even more troubling is his conclusion that mandating leave will have a negative impact on job opportunities for women. According to Professor Summers, the expected cost of parental leave is greater for women than for men.

Employers, he argues, will seek to hire workers with lower benefit costs, increasing the pressure to discriminate against women. "It is thus possible," he concludes, "that mandated benefit programs can work against the interest of those who most require the benefit being offered."

Mr. President, I do know that will happen. I certainly hope that it will not happen. I can only wish for the best in this legislation, but I clearly do believe that we have to weigh out the possibilities of what might happen, as do economists who really understand and who do think through the consequences in the marketplace.

In fact, according to a recent Gallup survey, almost 40 percent of employers polled confessed they would be less likely to hire women if mandated family leave becomes law. Another 50 percent said they would be more likely to reduce the number of jobs for low-skilled workers.

Many of the working women that I have spoken to in Kansas, and I have talked with many, sense they will have to pay for this mandate in some way, they worry about job security and they particularly worry that health benefits may be reduced in order to make up for another mandate imposed on an employer. Part-time workers fear that their hours will be cut so they fall outside the act. Full-time workers fear that they will be made part-time or that their health benefits will be reduced.

So there are these tradeoffs that work both ways and no one is absolutely certain what the outcome will be.

Until now Congress, I think, has been wise in refraining from interfering with the bargaining relationship. The give-and-take between employer and employee, however uneven at times it may be, is I think, the best solution. This has allowed maximum flexibility for wage and benefit packages to be shaped according to the needs of workers and the fiscal constraints of businesses.

The same dollar will be spent on workers. Only the pie will be sliced along different lines. And that is what I think, Mr. President, has to be of concern to us. Some workers will see their health care benefits reduced. Other employers will see no reason to continue their paid leave policies, since unpaid leave will be enough to satisfy the new law.

Employers must have the flexibility to offer a variety of benefits tailored to meet the diverse need of their workers. This might include provisions for child care, elder care, flexible work scheduling, job sharing or any number of programs designed to meet the unique needs of each workplace.

Finally, Mr. President, I am deeply concerned about the cumulative impact of this and other well-meaning legislation which add new costs and liabilities to every job.

As much as we might desire that this be done, and as I said earlier, I think it would be the desire of everyone to see that this could be managed in the workplace, I think that if we continue to create new burdens linked to employment, as this bill would do, businesses will come to view their employees as liabilities rather than assets. Sadly, this is already beginning to happen.

Many of my colleagues have come to the floor in the past to decry rising levels of unemployment while turning a blind eye when it comes to legislation like this, which may well influence the decision of a company to hire new employees.

I would argue, Mr. President, that is the prime responsibility we have today—to create new jobs with a secure foundation in the marketplace so that we can have some certainty about what is there, rather than just mandating from Washington a leave policy that we are not sure what the end result will be.

On top of payroll taxes and workers compensation, health care insurance is an additional, de facto employment tax on companies. Until we face the health care crisis head on, which indeed we must do, adding new mandates will only further discourage the creation of new jobs.

Before long we will see legislation to improve worker safety and health, to prohibit the hiring of striker replacements, to increase the minimum wage and to allow unlimited damage awards in civil rights cases. We can no longer afford to view measures of this kind in isolation, ignoring their impact on job creation, despite our best intentions. Now that we face a massive Federal debt, there will be more pressure for us here in Congress simply to mandate that businesses adopt programs the Federal Government can no longer afford. But then we should not be surprised to learn, as we continue to pass new and well-meaning employment laws like S. 5, that no new jobs are being created and more and more jobs are moving outside our borders.

A colleague of ours, former Senator George McGovern discovered firsthand just what obstacles a businessman must face these days. His small hotel and restaurant were driven into bankruptcy. His experience led him to conclude that: One-size-fits-all rules for businesses ignore the reality of the marketplace. And setting thresholds for regulatory guidelines at artificial levels—for example, 50 employees or more, $500,000 in sales—takes no account of other realities, such as profit margins, labor-intensive versus capital-intensive businesses, and local market economies.

It was his regret that he did not have this firsthand experience of the difficulties business people face every day when he served in public office. "That knowledge," he said, "would have made me a better United States Senator."

Mr. President, much will be said here today about family values. Leave to care for a family is good for business, and it certainly is good for a family. None of us would deny that. A number of employers already provide those benefits, and more should. But I have never believed that the Federal Government can legislate benefits to meet every need.

Mr. BOND. Mr. President, I thank the lead sponsor and the chairman of the committee who have labored long and hard to bring this measure to where we are today.

Mr. President, family versus job. Child versus career. Parenthood versus employment. These are the struggles that Americans face as our society changes.

The pressures of being a good parent or being good at your job are old. They are part of our social fabric. They make us caring parents and hard workers. Today, those pressures are in conflict—in our society, our families, and our individuals.

The conflict comes from change. The American workplace is evolving. Out of economic necessity, or from new opportunity, more women work outside their homes today; women are nearly half the work force now. Tomorrow, more women than today will hold jobs outside their homes. For most young women, it is a fact of life. Three out of every four women under 44 years old work outside the home today.

Talk with young parents today, and you can feel their daily struggle. A daughter is sick. We can take care of her all day when child care will not? A son has to get to school early. Who can be late to work? A daughter wants to play organized basketball. Who can take her to practice every day at 5 p.m.?

Finally, and most important for many of the families, how do we make ends meet? Should we spend more time and work trying to get ahead so we can give our children what we want them to have, or should we spend more time with them if it means less money or even costs us our jobs?

Most parents recognize these questions. They are central to our lives today. They present a choice—family versus job, child versus career. Today, our society suffers the results of that choice. Families are weaker.

The strongest and most important influence on a child is a parent. When that influence is removed, families break down. Many of the problems facing our society today are the consequence. Drugs, violence, crime, failing students, and poverty can be traced to a lack of family responsibility.

We should never force a parent to choose between a sick child and his or her job. We should never force a child to choose between caring for an aging parent and a job. And we should never force a mother to leave her newborn infant days after its birth in order to stay employed.

Those are the devastating effects of a lack of a family leave policy. They invite family hardship and break-up. We need to make family obligation something we encourage. We need to reinforce family ties. We heed to strengthen the sense of responsibility between a parent and a child, and we need to relieve the pressure of the choice of family versus job.

Ensuring a worker up to 12 weeks of unpaid job-protected leave for family emergencies or serious illness would do that.

Just as each American parent tries to find the right balance for their family and job responsibilities, we have tried to find the right balance in this legislation. Senator DODD has labored tirelessly for 7 years to enact family leave. He has successfully pushed that boulder up the hill. His desire to pass a workable bill with a bipartisan consensus has brought us to this point, where we trust the boulder will not roll down again.

We worked hard to answer legitimate employer concerns, and I think we have done that. The legislation minimizes the potential for employees to abuse their leave privileges and requires them to take more responsibility for their actions.

After taking a fresh look at the compromise yesterday, as Senator DODD mentioned, the National Retail Federation unanimously, through its executive committee, endorsed this legislation. The Federation represents one million retail establishments employing nearly 20 million people nationwide. Their endorsement demonstrates that the compromise is workable and is in the employers' best interest, and it provides a level playing field that all businesses with 50 or more employees throughout this country in each State will observe.

Last year, one-third of my colleagues on the Republican side of the aisle supported this legislation. I hope now, like the Retail Federation, those Republican Senators who did not and those Senators who are new to this body, will take a good hard look at the compromise. I will be happy to go over it with anybody who has questions, because I think we have dealt with many of the problems.

It is in the interest of all of us, of any party or no political party, in the interest of all of us as Americans, to understand that the changes shaping our society today require that we respond by strengthening the sense of family and responsibility.

Mr. President, we have sought a balance. Senators on this vote, and I believe all Americans in their lives, should reflect on their choice in this struggle of family versus job. When you look back on your life, what will you most appreciate? Will it be the project you spent all that time on, or the pay raise you got, or even a wonderful presentation you made? Or will it be the time that you spent with the newborn child, with your mother or father before they passed away, or with your child when that child was sick?

As we live day-to-day, we need to remember what we want our life to mean and to be when we look back. Child versus career, family versus job; we make the choice, but the choice we make affects our society, our family, and each of us as individuals, for better or for worse. Passage of this legislation, Mr. President, gives a strong signal that we want it to be for the better.

Mr. KENNEDY. Mr. President, first of all, I want to join my colleagues in expressing our appreciation and our respect for our colleagues and friend from Connecticut, Senator DODD, for his diligence in pursuing this issue. I believe this issue has been under consideration for some 7 years since the time when the first hearings were being held in distant cities across this country. Gradually, the awareness and understanding of the importance of this public policy issue has grown, and he and a handful of others involved in shaping the legislation deserve great audit for that. I commend him, as well as our friend Senator BOND, for the leadership they have provided on this issue.

As was mentioned at the outset, this has been a bipartisan effort. I think those of us who support the legislation understand very well that were it not for the strong bipartisan effort to move this legislation forward we would not be in the position we are today where, hopefully, we will see this legislation actually signed into law in these very next few days.

So I thank those Senators, and members of the Labor and Human Resources Committee on both sides of the aisle, for all the work they have done.

Mr. President, I suspect that not very long from now, when this legislation is signed into law, Members of this body will step back and say, I wonder why it took so long. I wonder why it took so long—because what we are really talking about is a matter of basic decency for workers in this country. We have found over the history of our Nation that there have been a handful of times where the case for acting to address an important social need was so compelling that Federal legislation was thought to be necessary and appropriate, and I think today is such a day.

It happened in the 1930's when the American public said that men and women in this country who work 40 hours a week, 52 weeks a year, ought to be able to receive enough in wages so that they can provide for their families. And we enacted the minimum wage. The public believed that was important as a national goal. And the minimum wage is effectively a mandate on businesses.

I think most Americans would agree with the tenet that we in this Nation have rejected the law of the jungle as far as the workplace is concerned. We believe that men and women who go out and work and who contribute to their communities and to their societies should have an income sufficient so that they can live with a sense of self-respect and a measure of dignity. That has been an important principle in our country. And support for the minimum wage has been something that has basically been continued under Republicans and Democrats over a long period of time.

We also made a decision in this country that if men and women are prepared to work, and work for 10, 15 and 20 years and then, through no fault of their own, are thrown off the payroll, there should at least be some cushion for those individuals. We decided we would not just slam the door and say, too bad if you have worked 20 years and you have got a family to support. Too bad that there has been a business judgment made to throw you out of your work. We do not do that. Instead we say all right, you have worked over the required period of time so we ensure that you get some help and assistance in the form of unemployment compensation to help you find another job and perhaps undergo some training program to upgrade your skills.

These basic protections have worked pretty well over a long period of time. We have had the greatest work force, the most productive work force in the world. And the fact that we require employers to meet these minimum labor standards has not prevented us from having the most productive work force.

We have tried to make sure that working men and women have safe conditions in the workplace. When we enacted the Occupational Safety and Health Act, we made a commitment that we were not going to say, "Workers be dammed and profits go through the sky." We were not going to say, "Workers, go in and breathe those noxious gases, work under dangerous conditions, lose fingers, lose arms, lose legs, because we don't care. The bottom line is you are expendable." Instead we said that we were going to try and ensure, to the extent possible, that working conditions would be safe.

And you know, Mr. President, it is because of, not in spite of, these policies that we do have the most productive work force. Because working men and women in this country feel that people do care, their fellow workers care and, by and large, their employers care, and they have a sense of pride in what they produce and a sense of achievement in the outcome, and a sense of loyalty to the companies and corporations for which they work.

Now in 1993, we are trying to say again, to working families that we want to make them stronger. I think of the Fernandez family in Lynn, MA—a wife that was working, a husband that was working, both in well-paying jobs. They had the blessing to have triplets, but the children became ill. And because of their caring for those triplets, because they took their life savings and invested them in health care for those triplets, because they were exhausted from caring for those triplets, because at the time when they were forced to make the choice between the job that they needed and the children that they loved, they chose the children they loved, both became unemployed. Today they are heavily in debt. Today, Rudy Fernandez is still out of work. And their futures, and their children's futures, are in jeopardy.

It is not just the Fernandez family. We have seen that this kind of thing is happening every day. As the Senator from Connecticut has pointed out, 300,000 workers have lost their jobs since the first veto of the legislation, because they were ill and were unable to take medical leave from work.

These are people like Jane Karuschakat of Long Island who lost her job just 2 weeks ago. She has breast cancer and needs chemotherapy. She asked for time off from work for her treatment. But her boss told her she could not have it, and that no law required him to keep her employed. He fired her.

And, Mr. President, incidents like this happen every day in the United States of America. And that is wrong. That is basically fundamentally wrong.

We know there are a number of companies that are enlightened companies and voluntarily grant leave to their employees, and that there are a handful of States, four States, that have led the rest in enacting State leave legislation. And we know what the results are. In surveys, employers say providing leave is not an undue burden. It has worked well. It has not been a heavy encumbrance on those companies and corporations. To the contrary, there are many studies showing that providing family and medical leave actually has saved companies money, because they do not have to go out and hire and train new workers.

It is interesting that 93 or 94 percent of people who take child care leave do come back to work. These people want to work, and they need to work, because they are not paid during this period of time.

So, Mr. President, I would hope that we would pass this legislation. The greatest asset that we have is the quality of our work force. And when we talk about the quality of our work force, we talk about wages, we talk about training, we talk about working conditions, but we also talk about morale. We talk about the mental health of the workers in the work force.

Why is it that every afternoon at 2 o'clock, 2 to 3 every afternoon, that productivity goes down in the workplaces of this country? It is because of the concerns of working mothers about whether their children are getting back from school, whether they are safe, and whether they are secure. It is a measurable, tangible factor. That is the kind of thing we are talking about here. It is just as tangible, even more important, when we are talking about the stress that occurs when an employee is unable to care for a sick child, a sick parent, a sick spouse for a limited period of time.

It is interesting to hear opponents talk about the costs of providing family and medical leave. What about the cost to the taxpayers when an employee who needs leave is fired? Who do you think ends up paying for the unemployment compensation? Who pays for the support programs for that person who has lost his job? It is the taxpayer who is paying for it—to support that individual who wants to work, is qualified to work, and whose only encumbrance is a sick child. Taxpayers are paying for the attitude of the employer who refuses to provide leave. So certainly the taxpayers have an interest in this legislation.

Finally, and most important, there is the well-being of the child. We know from studies that when a child is ill the attention and care that is given by the parent can have a dramatic impact in terms of the rate at which the child recovers.

Where is the bottom line when the issue is a child's recovery from illness being restored to decent health and returning to the members of their family?

This is a question of fairness. It is a question of decency. It is a question of the kind of society that we are, and it really is a question of whether we are going to put people first.

It is interesting that this legislation, the first piece of legislation that will pass the U.S. Senate—with the strong advocacy and support of President Clinton, who talked about putting people first—is an example of caring about the conditions of working men and women, men and women who are parents, wives, husbands, members of families—not just numbers—members of families, putting people first. That is what this issue is about, and I hope we pass this bill.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from California.

Mrs. BOXER. Mr. President, I want to commend the distinguished majority leader and my colleagues on the Committee on Labor and Human Resources for bringing the Family and Medical Leave Act to the Senate floor so quickly. I want to give a very personal thank you to the Senator from Connecticut [Mr. DODD]. This has been a very long fight for him and my colleagues; a very long fight for what I consider to be economic justice in the workplace.

The Family and Medical Leave Act is a clear demonstration of support for America's families, support which is long overdue. I cannot help but make the point, Mr. President, that it is going to be the vehicle which finally ends the gridlock in Washington, and it will not make the economic climate worse, as my fine friend and colleague from Kansas has suggested it might. I think it will make the economic climate in this country better. The act does not just apply to women, but to men and women, to fathers, as well as to mothers, to sons as well as to daughters. So to say that women will not be hired by business is a specious argument, unless you assume that men are not caring parents and men are not loving sons. I believe that they are.

Men also get sick. They get cancer. They get heart disease. They have ailments. And this bill applies to men and women.

This act, which provides up to 12 weeks of unpaid leave for workers to take care of a new child or a family emergency, recognizes the need to offer protection to our American families when they need it most—when they need it most, Mr. President. Some may never take advantage of family leave, but everyone covered by this act will have a feeling of relief when it is signed into law because they know if a crisis does strike them, they will not have to make that choice that the Senator from Massachusetts [Mr. KENNEDY] pointed to, the choice between an emergency and the well-being of your family.

Today many families need two incomes to make ends meet. We all know that. More than ever we are seeing women enter the work force. Look at the numbers: 60 percent of mothers with children under the age of 6 worked in 1990. Let me repeat that. Sixty percent of mothers with children under the age of 6 worked in 1990, and 75 percent of mothers with children ages 6 to 17 were working. I think there is universal agreement that motherhood and fatherhood is challenging enough when everything is going smoothly. Any one of us who has raised a family can tell you it is tough even in the best of times. In the worst of times, Mr. President, it can be horrible.

Many of us know firsthand it does not take too much to upset the applecart when you are weighing all the things and all the responsibilities that you have in your life. A parent never should be in a position of having to choose between a job and their child or their job and a parent with cancer or heart disease. What kind of a society would promulgate those kinds of terrible choices? The Family and Medical Leave Act is a caring response to the intense pressures that we all face in trying to balance our lives. It provides job security and continuation of health insurance.

Mr. President, the debate over this act has been raging almost as long as I have been in Congress, and I was elected in 1982. It saddens me that it has taken so long to pass this bill. But, on the other hand, it pleases me that the bill is headed toward enactment today and it will be signed by a President who understands, who personally understands the stresses and the needs of everyday working families.

I would like to set the record straight about how this bill would impact the business community, and the Senators from Connecticut and Massachusetts have put into the RECORD very important studies on this. But I want to make the point, Mr. President, that employers with 50 or less employees are exempted from this legislation. We have exempted small business.

Further, a 1991 nationwide survey conducted by the SBA, the Small Business Administration, under former President George Bush, found that the cost of permanently replacing an employee was significantly more than the cost of granting leave. And, again, the Senator from Connecticut pointed this out. It costs more not to follow this policy than to follow this policy.

Working Women magazine's 1992 survey of the 100 American companies

with the best family leave policy included companies as large at AT&T with over 100,000 employees to GT Water Products of Moorpark, CA, with only 26 employees. Employers find that morale is boosted and when morale is boosted, Mr. President, productivity is boosted. So I personally look at this as pro-business legislation, as well as it being pro-worker legislation.

Mr. President, I think if you look back to the debates in this august body many years ago over child labor laws, over minimum wage, you will find many of the same arguments. But today we have an opportunity to understand that those arguments simply do not hold water. I think it is important that we look at the nations with whom we compete. Again, the Senator from Kansas said many jobs are being lost to countries overseas, countries abroad. That is true. But many of these countries, like Japan, like Germany, have very, very liberal family leave policies, and the one we are offering is indeed a modest proposal.

We have an opportunity today to act for the good of working people and their families. Congress has voted twice to pass this bill. Each time it was vetoed by President Bush and there was gridlock. I was proud to stand up and speak for the bill in the House of Representatives, as I am equally proud to speak out for this bill today. We have a family-friendly President ready to sign this bill. He gets it, he gets the pressures on America's working families. So today we can end the gridlock that has plagued Washington for too many years by passing a bill that will help the economic climate in America and by recognizing the importance and the contribution of all of America's working families.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington. The Chair will observe for those who wish to speak under the regular order, we would not proceed beyond 12:30. On the other hand, any Member seeking recognition, in spite of the regular order, would be required to be recognized by the Chair. The unusual circumstance today is that the President of the United States is coming in to the Democratic caucus at 12:15. It would be the guess of the Presiding Officer that the two distinguished Senators on their feet now might not be able to both speak by 12:35, so it would be my intention to call regular order at 12:30, thus annoying at least one of the two distinguished Senators standing on their feet and present. I hope that the Senators will be understanding.

The Senator from the State of Washington.

Mrs. MURRAY. Mr. President, I am pleased to be here on the floor of the U.S. Senate to speak in strong support of the Family and Medical Leave Act.

First of all, my heartfelt thanks go to Senator DODD and all of my colleagues who have worked so hard and spent so much time and energy working to enact this legislation, and my thanks as well to President Clinton, who has championed this legislation in his campaign.

Family and medical leave are issues that I have worked on successfully at the State level, and I am excited by the prospect that family and medical leave will be the first major legislation to pass in my first days as a Senator.

The Family and Medical Leave Act is an important bill for many reasons. Its passage will mean, finally, that when those of us who go to work every day are faced with a family crisis, we will not be forced to choose between our job and our family.

As a State senator, I spent a great deal of time and energy on this issue because of a friend who faced a personal crisis. A mother of a 16-year-old son, dying of leukemia, was forced to make a choice between taking time off to be with her son in his final few months or losing her job. Not only was she faced with a personal emotional crisis but with an economic crisis as well. At a time when hospital bills and doctors bills were piling up, she had to choose between her paycheck and her son. That was not right.

As I have championed this issue, I have met numerous people whose lives have been touched by the lack of a national family and medical leave policy. However, when I most clearly understood this issue was when it touched me personally.

My father has had multiple sclerosis since I was very young. My mother was his primary caregiver. A year and a half ago, my mother had a heart attack and bypass surgery. Suddenly, my six brothers and sisters and I were faced with the question of who could take time off to care for the people we love the most, the people who cared for us for so long.

It was then I realized the personal nature of this bill and why it is so important. My parents did not want to be a burden to any of us, and we did not want our parents to feel that they were a burden.

A single family leave policy would have allowed any of us a few weeks necessary to see them through their medical crisis but none was available.

When I was 26 years old and worked as an executive secretary in Seattle, I became pregnant with my first child. At that time, even though I was working out of economic necessity, there were no options for working mothers. A family leave policy would have enabled me to devote my attention to the changes in my family. It would also have given me a very important message about our country: That our families are as important as our jobs. This is an urgent message today as well, when we have drug and alcohol problems, rising violent crime among our youth, and families that are failing.

Today, we are one of the few industrialized nations that does not offer family leave to those who need it.

If the argument against family leave is that businesses cannot afford it, my response is simple: In order to compete in a global economy, we must address the needs of American workers. We must provide family leave, as our foreign competitors do.

We are a nation of working families—single-parent families and two-parent families. My family is an example of such a family. I am of the infamous sandwich generation, charged with caring for my own children and my parents at the same time. I personally understand the emotional consequences. I also know that when my family is safe and well cared for, I do a better job at work. Family leave is one small step in ensuring that America has a productive work force.

The reasons for passing the Family and Medical Leave Act are clear: It is sound economic policy, and it is sound social policy. Its passage will send a powerful message to our Nation that our Government finally is beginning to understand who we are today; that we are out there struggling to raise our families and care for the people we love. At the same time, we are the backbone of our economy. When we care for those we love, when they are critically ill or unable to care for themselves, without fear of losing our jobs, our Nation will have taken a giant step toward becoming a caring nation. And only a caring nation can be an economically strong one.

I believe that the message of the last election was loud and clear: As a nation, we must begin to care for each other once again.

If one mother is able to sit with her seriously ill son without fear of losing her life's savings, if one son is able to hold the hand of his dying mother, if one of us—you or I—is able to care for someone we love when they need us the most, then the time and the energy spent on the passage of this bill is worth it.

Mr. President, I urge my colleagues to vote for this important legislation.

I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

I take great pride in that the first time I speak on the floor of this great body is to offer my support for the much needed Family and Medical Leave Act. This bill means a great deal to me, and I believe it means a greet deal to the people of California as well.

Thirty-five years ago, when I gave birth to my daughter Katherine, there was no maternity or family leave. I left my job to have my child.

Today, California provides 16 weeks of unpaid leave to private- and public-sector employees. The city and county of San Francisco provides up to 6 months unpaid leave. The city of Los Angeles provides up to 4 months.

But also today, according to a 1989 study of the Bureau of Labor Statistics, 63 percent of our Nation's employees do not have maternity leave coverage. They still must leave their jobs in the United States of America.

From personal experience, I have also seen how difficult it is to concentrate on work when a parent or family member is critically or terminally ill. Eleven to 13 percent of women today caring for their elderly parents are forced to leave their jobs to give the kind of care every child owes a parent. Without job-guaranteed family leave, men and women still leave their jobs to do their family responsibilities. The reality is that in this Nation, in many situations, an employee must lie in order to get time off to care for a sick child or a parent.

During last year's debate on family values, this issue was joined. Some took their shots at Murphy Brown, saying that a single mother should not be a role model for this Nation's families. But the fact is that the day when one parent could stay home with the children is over for most American families. The harsh reality today is women work because they must earn a living. And they do so when they are alone with the child, and they do so to supplement their incomes because they must.

The fact is that family leave is the centerpiece of public policy that values families. It is the first step.

The Small Business Administration has found that since the 1990 veto of this legislation, which has been spoken about, not only did 300,000 workers lose their jobs but, ironically, midsized and large businesses would have saved nearly $500 million in hiring and training costs for new workers if President Bush had signed this legislation in 1990.

California provides 16 weeks of unpaid leave to both private- and public-sector workers to care for a new child or the serious health condition of a child, spouse, or parent. Ten other States have enacted leave laws that are working for both the employee and the employer. The time has come to ensure that all America's families have the ability to keep their jobs and care for their families, not the way it was 35 years ago when I began.

Through this bill, we can bring our standards in line with every other industrialized nation, including our most competitive trading partners. We can provide the 12 weeks of unpaid, job-protected leave with health insurance coverage for the birth or adoption of a child. We apply these standards to businesses with more than 50 employees. We guarantee these rights to anyone who has worked at their job for more than 25 hours a week for at least 12 months. And we allow employers to recapture health insurance premiums paid during the leave if the employee does not return to work. It is a fair plan. It is a just plan.

Today, we have an opportunity to take a stand for our workers. We have an opportunity to support the working parents of this Nation, and we have an opportunity, finally, to allow a mother to keep her job to give birth to a child or to care for a sick child or an elderly parent.

I am proud to be in the Senate to see passage of this legislation.

Thank you, Mr. President.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. The Senate will stand in recess until 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:14 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GLENN].

FAMILY AND MEDICAL LEAVE ACT OF 1993

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

ORDER OF PROCEDURE

Mr. DODD. Mr. President, in behalf of the majority leader, I ask unanimous consent that the time until 3 p.m. today be for debate only on S. 5 with no amendments in order during that time, and that at 3 p.m. the majority leader be recognized.

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

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Oregon [Mr. PACKWOOD] is recognized.

Mr. PACKWOOD. Mr. President, I thank the Chair.

Mr. President, let me congratulate the Senator from Connecticut. Earlier in the day, I asked him how long ago it was he came in my office with his charts. He said 7 years ago. It did not seem like 7 years ago but, if it was, I want to give him an "E" for effort and an "A" for ability because he has worked and worked.

I am not sure I have seen in my career anybody as diligent to pursue one topic to a successful conclusion as Senator DODD has on this, and if a single person deserves credit it is he.

I want to thank, on our side, Senator BOND. I think without Senator BOND we would not be as far as we are now.

But we are here. I am sure there are going to be some amendments offered but I do not think they are going to derail this bill, and we will at last see it passed, signed by the President, and I hope it is the last we have to see of it for 5 or 10 years on the floor.

My father died some 25 years ago—and he was a lobbyist at the Oregon Legislature for 32 years, from 1927 to 1959. I wish I had kept his scrapbook of all of the things employers did not want or could not afford through the years—workers compensation, unemployment compensation, Social Security, minimum wage, and even at the start of World War II, withholding, where we were finally going to have to fund a major war effort. So we began to withhold on the average wage earner's wages. Up to that time they just paid their tax at the end of the year. This would provide a great spurt of money initially.

On the "speed up," or withholding income taxes with each paycheck, the employers said they could not handle the additional burden. In each case, they could adapt, but they did not realize it. I am not being critical. But in each case they managed to adapt: to unemployment compensation, workers compensation, Social Security, the minimum wage, and the withholding of taxes on their employees. And business has thrived.

Therefore, I understand some of the employer opposition to the bill now because for some of them—not in Oregon—it looks like a no-win. And I think they have the same fears they had about the other pieces of social legislation in the past that they opposed.

Along with Senator DODD, I have been a long-time advocate of the family and medical leave legislation, and the bill which we have before us today does provide up to 12 weeks of unpaid—the Senator from Connecticut emphasized that—unpaid leave for the birth or adoption of a child or for a serious illness of a worker or their immediate family.

My home State of Oregon is an excellent example of the success of family and medical leave laws. In 1988 Oregon enacted legislation to allow 12 weeks of leave for parents of newborns and seriously ill children. At the time there was a great deal of opposition, and concern was heard from those who feared it would cost too much or be difficult to implement, and would force employers to cut back other benefits to employees.

I am happy to say that experience has proved these claims have been without merit. In fact, a survey by Oregon's Bureau of Labor and Industries in May 1990 found that 88 percent of employers in Oregon had no difficulty in complying with our family leave law. We were so pleased with the benefits of the original legislation that in 1991 the legislature expanded the law to add leave for serious medical conditions of the employee or their spouse.

Oregon's law is now one of the Nation's most comprehensive family and medical leave plans.

There may be skeptics who would say just because a few States have had good experience with family leave, why should I want it, or my State?

The best answer I can give is that the Family and Medical Leave Act is profamily. Whatever side of the political spectrum you may be on regarding the so-called family issues, this is clearly profamily legislation. It is a tremendous benefit to your constituents.

The bill allows parents to spend the first few critical weeks of their child's life with the child. It also allows a worker whose child, parent, or spouse, or who himself is critically ill, to take the necessary time to recover at home. Having the opportunity to deal with a crisis without fear of job loss strengthens families and keeps them together, and that, Mr. President, is profamily.

I hope we will pass the Family and Medical Leave Act without weakening amendments. I am particularly concerned about proposals which, while conceding that family and medical leave is beneficial, would allow each employer to decide whether or not to offer it.

The establishment of family leave as a basic protection for American workers is not a departure from current labor laws but a logical extension of them. Payment of a minimum wage, entitlement to Social Security, and working in a safe workplace, once controversial notions, have all come to be accpeted as minimum labor standards, and most Americans would agree that we as a nation are better for them.

I think that family and medical leave is no different. The Family and Medical Leave Act deserves our support.

For all of these reasons, I am pleased to participate in what I hope will be the final consideration of the Family and Medical Leave Act by the U.S. Senate. I look forward to its passage into law and the signing by the President.

I thank the Chair and congratulate the principal sponsors.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 268 and S. 269 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, I find myself in somewhat of a unique situation here. As a strong supporter of parental leave legislation, as someone who has worked hard to help author a compromise which hopefully brought the bill and the language of the bill to the place where it could be supported on a bipartisan basis and could address the fundamental policy that I think is the correct policy of providing a way for working mothers in particular, but for fathers and mothers to spend critical time at critical times with their children, whether they are newborn or newly adopted or whether they are in serious medical condition or have suffered injury, or with elderly parents who may be in the last few days of life, without jeopardizing their employment, I believe that is a concept that we ought to advance. And I have worked hard to advance that concept in a way that recognizes the needs of the workplace and the needs of the employer.

In addition, as many Members know, I have taken a position in terms of opposition to the President's stated policy of changing the current DOD policy regarding homosexuals in the military. This was not an issue of my choosing and not an issue of Republicans choosing. It was simply an issue that the President chose to advance early in his Presidency.

And so, as such, while we as Republicans would very much like to deal with that issue separately, and believe it ought to be dealt with separately, we find that we may be forced to deal with it as a part of this particular legislation before us.

And so, as I said, as someone who is a sponsor of this legislation and someone who wants to see it advance, but also someone who has some opinions and strong feelings about the policy as it effects the rights of homosexuals to serve in the military, I find myself somewhat at a crossroads.

I wish that I could stand here and offer unanimous consent to have the gays in the military issue dealt with on its merits as a single issue with full debate, with a final vote where Members could express whether they are in favor of retaining current policy or in changing current policy. The public would know where each Senator stood. They would have an opportunity to hear the debate and we would be able to examine the evidence and make a determination.

In fact, I think an even better policy would have been one suggested by then Secretary of Defense-Designee Les Aspin, who in response to my question in his confirmation hearing as to how he would proceed on this issue said, very, very carefully, and then later, very deliberate, and indicated that this is a highly complex, highly emotional issue, one that deserved full hearings, one that deserved full consultation with the Joint Chiefs and military personnel and those most directly affected by it.

So we all thought that was going to be the procedure used to address this issue. And all of us were stunned, and I assume that includes both Democrats as well as Republicans, when the President chose to make this one of the very first issues that he raised in his new Presidency, forcing us—because the President insisted on going forward with a modification and change in current policy—who opposed that, to try to find some way to weigh in on the issue and at least ask for a temporary suspension or freeze of current policy to give the Armed Services Committee members and all the Members of the Senate an opportunity to evaluate this carefully before making a policy change.

The President did not give us that opportunity and so now we are faced with the prospect of having only one option open to us and that is addressing the issue on legislation as it comes before the Senate.

Unfortunately, a bill which, as I said, I support is the first issue before the Senate. The Senate is going to go on recess, as is Congress, for the February recess starting probably on Friday. And this may be the only bill up this week, and then another 2-week delay. In the meantime, the policy change goes forward without an opportunity for those of us who oppose it to weigh in and to see if the Senate wants to support an effort to stop it from going forward.

So we regret that. My understanding is that the minority leader, Senator DOLE, will once again request an opportunity to separate the gays in the military issue from parental leave so that we can deal with each on its own merits so that the American public knows where each of us stands on each issue without clouding the matter or murkying up the matter so that for whatever reason people may say: Well, I am for this and not for that and therefore I could not vote for that because of this.

It is a time-honored technique in this body to cloud a position on an issue. I am not suggesting that that is what is being done here today. I am simply suggesting that affords the opportunity for Members if they so wish to do that to do so.

It appears, though, that we will not have that opportunity to separate the two issues, and so at some point I would expect we would be addressing both under this same piece of legislation. And I regret that.

Let me just say, Mr. President, that S. 5 represents a historic effort to address what I think is a very important issue facing our Nation—work and the family. It speaks to the involvement of children with their parents at two very critical times in their lives: First, at the beginning of life where children are the most fragile and the most dependent and, second, at a time of medical crisis where that moment of immediate need should involve parents together with their children. These are I think two very basic and two very essential times where the provision of leave and a guarantee of job security is in the long run a pretty modest request.

Increasing numbers of others find themselves in the workplace, many forced there by financial pressures. Today about two-thirds of the Nation's adult women are in the work force and other half of the mothers with children are employed full time for some portion of the year. Two-thirds of the new entrants in the work force between now and the year 2000 will be women, most in their child-bearing years. Clearly one of the tasks that we face as a nation is to reconcile the conflicting needs of parents, work, and children.

What mother does not sit at her desk in the afternoon at 3 o'clock as school is letting out and wondering about where her children are? What they are doing? And regretting the fact that she cannot be there. But there are few mothers that have the choice of always being there at 3 o'clock when school lets out because the realities of today, given the financial pressures that many face, are they have no choice.

Now while the measure before us is not perfect—I do not know too many measures that come before this body that are perfect—it does represent, according to our new Labor Secretary just the right amount of balance between the legitimate family needs of parents and the legitimate needs of business.

I have been interested in family issues for some time. Before coming to the Senate, I was privileged to serve on the House Select Committee on Children, Youth and Families. There I had an opportunity to gain an understanding of the importance of families having time to spend with their children. At the same time, I have been aware of the important needs of the business community and have strived to give careful consideration to their concerns.

What we have attempted to do over the last several years—and it has been several years that we have been working on this legislation—what we have attempted to do is to find that balance between legitimate business concerns about this legislation and its impact on business and employment and the legitimate concerns of mothers and fathers and parents to spend time, particularly at those critical times, with their children. We have tried to balance those needs by not requiring leave to be paid. We have allowed employers to require employees to use accrued paid vacation, personal, medical, or sick leave before taking the medical leave provided in this bill. We have allowed employers to require second and even third opinions before medical leave is granted if an employer suspects the requested leave is not requested for a valid purpose.

We have set aside a key employee designation, recognizing the needs of employers to say I need to designate certain people who are so critical to the operation of the business that in their absence and with the inability of our staff to fill that need, we need to have some adjustment and some negotiation. We just cannot have a locked-in policy. Altogether there are 18 separate provisions designed to protect and address the legitimate needs of business and employers, including a very important one, and that is that this does not even affect those businesses who employ 50 or less, which constitute 95 percent of all the businesses in this country.

To remain competitive in the global economy, to recruit and retain good employees and improve productivity, particularly at a time of growing labor problems, many employers have recognized the need to offer more attractive benefits to its employees. Many already offer plans similar to the one in this legislation, and those employers should be commended. However, we are aware of those employers who have policies that are not as favorable; in fact, not only not favorable to families but actually hostile toward families. Those are the ones we are trying to reach with this legislation.

We all need to recognize, Mr. President, that Government programs are never a substitute and never can be a substitute for the love and the care and the concern that a parent can give to its child. We need a Federal policy that recognizes the fact that children need their parents to be intimately involved in their lives, not just during the first 12 weeks after birth but for many years thereafter. We, as a nation, should support families and encourage parents to spend more time with their children. Parents should never be forced to choose between their children and economic survival. Yet, without a family leave policy, I am afraid we will force many families to do just that. Hopefully, this legislation will send a very strong message about the importance of the family and further encourage businesses to adapt family friendly work policies.

Mr. President, I am grateful for the opportunity that I have had to work closely with my colleagues to fashion what I think is an acceptable compromise, a bill which advances an important concept, but a bill which also recognizes that employers' needs also have to be looked at because ultimately they are the ones who provide the employment.

I want to thank Senator DODD for his willingness to work with me and Senator BOND and others to address these concerns. His flexibility in adjusting the legislation, his patience and his perseverance are to be commended. We have before us an opportunity to advance an important policy. I regret, as I said, that it has to be clouded with an issue of equal if not greater importance. I regret that the majority leader will not apparently allow us to deal with that issue separately and that we have no other option but to go forward with this legislation on this particular bill.

Mr. President, with that, I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, this bill certainly represents good politics, and I would be one, having been in politics a while, to presume to support it for that reason. But it is not good policy and, therefore, I cannot support it. I come from a State that has just gone through one of the most severe recessions in the post World War II period, where people's jobs are at risk and their opportunity to find jobs is severely limited. One has to wonder why it is that the first major piece of legislation that comes out of this body in this session would further limit their opportunities to find jobs and make it more difficult for them to be competitive in the marketplace, both as businesses and individuals. Yet, that is the choice which this bill has put upon us.

It is a mandated cost on the entrepreneurs of this Nation. This Nation already has too many costs placed upon its entrepreneurs in the form of regulations and restrictions. We are a nation which, if we are going to create more jobs and add to our prosperity, must allow those among us who have the energy, the desire, the interest, the enthusiasm, the originality, the initiative to go out, risk their sweat and their hard work and their capital and their time an opportunity to succeed.

And yet the Federal Government especially, and many local governments also, continue to burden that entrepreneur with more and more restraints and make it more and more difficult for that individual to be successful and to create jobs. Now we have as the first piece of legislation coming out of this Senate a piece of legislation which will go down that same path. It will limit the entrepreneur. It will cost jobs. It will mean that people who have worked out agreements with their employers, agreements which, in many cases, caused them to give up other rights which they might have wanted will find that those agreements no longer are in force or will be superseded by or will be set aside by this law.

To take a broad brush and apply it to the entire American community productivity and say that every individual business and productive action in this Nation which involves employment shall be mandated to conform with a certain set of leave principles relative to family problems and sickness and pregnancies is to say that a law passed in Washington, DC, which may affect people in Washington, DC, can be equally applied to people who live in Epping, NH, when the situations of the people in Washington, DC, and the people in Epping, NH, can be dramatically

different, especially as to their employment, how they are impacted by their employment and what their relationship is between the employer and the employee.

That is why it is much more appropriate that the issues involved in this bill be settled, at the minimum at the State level, but even more appropriately between the employer and employee; that they be worked out through the process of that employment relationship; and that it not be mandated down from the top because by mandating it down from the top, not only do you put extraordinary costs onto individuals and businesses who might want to be productive in some other way, but you also put those individuals who are confronted with this law at risk of losing other rights which they may have already obtained in relationship to their employment which they deem to be better.

Why should all this knowledge of what is the best thing to do and how is the best way to approach employment be centered in this room? It clearly is not. It is much more logical that the best relationships and the people who know best as to how they should relate and manage their employment are the folks who are actually involved in the business in the entrepreneurial activity. Those agreements made between employer and employee which may be significantly different than what this bill applies to will be significantly impacted by this bill. And as a result, this bill is going to have a dramatically chilling effect on those types of relationships.

One of the big concerns that I had in my prior job as Governor of New Hampshire was that we were constantly being confronted with mandated costs passed down to us by the Federal Government which were not being reimbursed to us at the State level.

Those costs were driving our budget at the State level in a way that made it virtually impossible in many instances for us to manage our own house, and that has been a complaint of many Governors. I noticed that yesterday the President, who so well understands that concern, represented to the Governors that he would try to alleviate that mandate pressure, at least in the area of Medicaid, by allowing greater waiver opportunity.

But that same effect of passing mandated costs down to States and lower levels of government is carried out in this bill against the private sector. Here we have mandated costs being put on businesses which may not feel they can bear those costs or may feel in conjunction with their employees that it would be better if those costs were borne in a different benefit.

How are we to know, for example, that by passing this bill we have not put an employer out of business, who ends up having to hire additional people in order to fulfill the jobs that are vacated when the person leaves their employment in order to take care of their sick parent or because of a pregnancy? How are we to know that when that occurs we have not put such pressure on a small business—and 50 people is a small business—that that business cannot bear the costs of now having two people doing essentially the same job? Granted, they do not have to maintain the daily expense of the person who is on leave but they have to assume that that person is going to come back. Under this bill, they have to take that person back. And they have hired an interim person who probably does not perceive of themselves as interim. When the person comes back who has been on leave, the interim individual obviously either loses their job or finds themselves in a position of being kept on in a business that possibly cannot afford that cost.

Would it not make more sense to allow the individual who has a problem of health or the good fortune of having a child to work out agreements on a one-on-one basis with their employer or through their collective bargaining agreement so they would have an opportunity to do things that might vary the situation more appropriately to the uniqueness of their situation rather than have it mandated on them in a broad-brush approach?

This bill leaves a great deal to be desired. As I said, it is good politics. But from a policy standpoint, it will end up making it much more difficult for many individuals to set up their lifestyles in a way that they feel is appropriate. It will make it much more difficult for many small businesses to survive. And it is going to place costs on the private sector in this Nation which will undermine the strengths and the enthusiasm and the energies of the key element of the job creators in this Nation—the entrepreneurs.

It is estimated that the implementation of this bill is going to cost between $1.7 and $7 billion. That is a huge price to pay in a time when our competitiveness is at risk internationally.

I recognize that the politics of this bill means it is going to pass. But in the years to come, we are going to find the policies of this bill are going to cost Americans jobs, and that is going to be a mistake.

I yield back the time.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Chair.

Mr. President, I am proud to be cosponsor of the Family and Medical Leave Act. I strongly support it. I could go on for a long time explaining why I believe the case for this bill is so compelling. However, I would like to focus on just one issue today, the impact of this bill on our competitiveness as a nation.

We know, Mr. President, that this country faces increasingly tough international competition. Because of that competition, I know some Senators believe it does not make sense to do anything that could add to the costs of doing business in this country. I understand that view. But I think it leaves out the most important part of the competitiveness argument.

I was in the Banking Committee 2 weeks ago in a hearing on the nomination of Laura Tyson to be Chairman of the Council of Economic Advisers. One of the issues we were able to discuss with her was the issue of competitive advantage. Miss Tyson in both her committee appearance and in her writings has made it clear that a country's competitiveness no longer depends solely on its material resources.

That may seem counterintuitive at first, but Japan is the perfect example of the truth of her thesis. Japan has little or no mineral resources and no oil at all. Yet, no one would argue or even attempt to argue that Japan is not an economic powerhouse or that its businesses are not extremely competitive.

If competitive advantage does not depend on material resources, then on what does it depend? Laura Tyson's work and the work of others makes it clear that in the modern world in which we all live, competitive advantage depends on a nation's people. Our international competition knows that. That is why Japan provides its workers with 12 weeks of partially paid pregnancy disability leave. That is why in September 1992, the European Community Commission issued a directive requiring all member countries to provide a standard minimum of 14 weeks paid maternity leave. Other nations provide family and medical leave because they know it contributes to the strength of their work force. They know that keeping talented employees is important and that it saves them substantial training costs. They know that employees are more productive when they have a mechanism to deal with major family issues and crises and that employees do not abuse sound, sensible family leave policies.

Based on that evidence, there can be no doubt that the Family and Medical Leave Act before us now does not detract from our international competitiveness but, rather, enhances it.

By 1990, over 57 million women were working or looking for work—a 200-percent increase since 1950. Ninety-six percent of fathers and 65 percent of mothers now work outside of the home. All of these people need a way to deal with the birth of a child or the illness of a parent or other critically important family issues. And for all of these people as well as for the businesses that

employ them, a sound family leave policy means greater productivity and greater competitiveness.

I saw this personally, Mr. President, in my office when I was recorder of deeds of Cook County. By virtue of the support of our employees and their families, our office did a better job in its service to the public. Businesses in my State tell me the same thing. Workers are a company's most important link to the market and a trained, productive work force can be the difference between profit and loss.

I want to quote, Mr. President, from a letter I received from Kenneth Lehman and Elliot Lehman, the cochairman and chairman emeritus, respectively, of Fel-Pro, a manufacturer of gaskets, sealing products, and lubricants in Illinois. The letter supports the family leave bill stating that:

It is our belief that its passage will benefit our Nation and its citizens.

Our company has provided a similar benefit for many years and has found it to be of great support to our employees. The bill deals with items of family needs (maternity, eldercare, emergencies, etc.). We know that it is comforting to our people that, at these times, they need not be concerned with job security.

The advantages to the company are many, among which it helps provide and retain an experienced and loyal work force. This contributes to our ability to compete in an increasingly competitive world, which in turn contributes to our profitability.

Fel-Pro has been cited as one of the 10 best companies to work for in America. I share the view expressed by this company, Mr. President. As I understand it, the General Accounting Office estimated that the annual cost of the bill is only $5.30 per covered employee—and that cost is solely due to the fact that health insurance is kept in effect during the leave. Against that small cost is the $500 million in hiring and training costs that medium- and large-size businesses would have saved had the Family Leave Act become law in 1990. And that, in my view, is only the tip of the iceberg. The real savings are from a loyal, more productive work force that adds to the international competitiveness of our companies.

I am for the Family and Medical Leave Act because it is the right thing to do. I am also for it because it is the smart thing to do.

Our major economic asset is our people; all of our policies, therefore, must be people focused. Increasing our competitiveness is not just a matter of investing in machinery and equipment, it is also a matter of making the right investments in our people.

The Family and Medical Leave Act is a very low-cost investment that I am absolutely convinced will pay off manyfold. It is in our people's interest; it is in our national interest. I strongly urge my colleagues to join me in voting for this procompetitive, profamily, pro-America bill.

Mr. President, I ask unanimous consent that a copy of the letter from Fel-Pro be printed in the RECORD.

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

FEL-PRO, INC.,
Skokie, IL, February 2, 1993.

Senator CAROL MOSELEY-BRAUN,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR BRAUN: It is our hope that you will support the above. It is our belief that its passage will benefit our nation and its citizens.

Our company has provided a similar benefit for many years and has found it to be of great support to our employees. The bill deals with times of family needs (maternity, eldercare, emergencies, etc.). We know that it is comforting to our people that, at these times, they need not be concerned with job security.

The advantages to the company are many, among which it helps provide and retain an experienced and loyal work force. This contributes to our ability to compete in an increasingly competitive world, which in turn contributes to our profitability.

As you know, in the recently published book by Messrs. Moskowitz and Levering entitled, "The 100 Best Companies to Work For in America," Fel-Pro was selected as one of the top ten. It is reasonable to assume that this benefit helped in making this assessment.

As stated above, please support passage of this bill.

Sincerely,

KENNETH LEHMAN,
Co-Chairman.
ELLIOT LEHMAN,
Chairman, Emeritus.

Mr. PELL. Mr. President, perhaps no bill that has been considered by the Senate in recent years has received the scrutiny that the Family and Medical Leave Act has. In its various forms, this bill has been introduced, reported favorably by the Labor and Human Resources Committee, passed by the Senate, and vetoed by President Bush twice. Its course through this body has taken over 7 years. And through it all, leading the charge, has been the Senator from Connecticut [Mr. DODD] who has demonstrated to his colleagues and the people of this Nation that this is legislation that will truly address an urgent national need.

I have long supported establishing a national family and medical leave policy and have joined with Senator DODD and the chairman of the Labor Committee, Senator KENNEDY—whose support and leadership have been crucial—in introducing various versions of this bill over the years.

Mr. President, probably every one of the bill's 46 cosponsors has stated repeatedly the many reasons why family and medical leave legislation is such an urgent priority for this Nation. With 50 percent of mothers of children under age 1 working outside the home, and with two-thirds of mothers of children under the age of 3 working outside the home, it is no surprise that in many homes in America today, there is simply no one family member who can address urgent family needs without risking the loss of his or her job. And in our Nation today, when so many families desperately need a helping hand, workers should not have to choose between the job they need and their responsibility to a newborn or sick child, a sick spouse, or a sick parent.

There is no question that when this legislation was first introduced, the business community raised several concerns that deserved to be addressed. And the sponsors of this legislation—and the Congress itself—were receptive, and many changes were made to ensure that any family and medical leave policy would cause as little disruption as possible to as few businesses as possible. And I think that many of the modifications that have been made will make this law, once enacted, work even better.

Mr. President, we have engaged in a national debate on family and medical leave for many years now, and numerous States, including my own State of Rhode Island, have adopted such laws that are working quite well. We are not doing anything radical here; rather, we are simply adopting as national policy a policy that has been successfully in force in some form in 11 States and in every other industrialized nation in the world.

President Clinton has remained steadfast in his support for this legislation and has pledged to sign this bill if it is sent to him. What a pleasure it will be for so many of us, after so many times, to vote for this bill and finally see it become law. I urge my colleagues to take the best possible first step in this era of change and send this family and medical leave bill to the President today.

Mr. LIEBERMAN. Mr. President, I am pleased to speak today in support of my colleague from Connecticut, Senator DODD, and his bill, the Family and Medical Leave Act. Its speedy consideration—and, I hope, passage—this week, after years of gridlock, will be a testament to how effectively this Congress can work with the new President on behalf of the public good.

American families are struggling these days to balance the demands of work and family. Single parents must work in order to support their families, and in most two-parent families, both mother and father must work in order to be able to provide their children with the basics of life. And often, working parents also face the dilemma of caring for their own aging parents or ill spouses.

The Family and Medical Leave Act is designed to enable American working families to handle these sometimes overwhelming burdens in a way that does not place an undue burden on employers. It allows a mother or father to take an unpaid leave when a child is born or adopted. It enables a son or

daughter to take unpaid leave from work when a parent is ill and in need of care. And it allows a wife or husband to take leave when a spouse is sick.

The Family and Medical Leave Act provides for a modest but important amount of leave in times of personal crisis and ensures that productive members of the work force won't have to make the difficult choice between leaving a job and caring for a loved one. I believe it will help many hard-working people keep their jobs, whereas now they might be forced to quit to care for a family member. And I also believe it will help many families avoid sending a loved one into a nursing facility, since it will give them the ability to provide home-based care without losing their jobs.

This bill is pro-family. But it is not antibusiness. The concerns of business are reflected in the provisions in the legislation: the leave is unpaid, which guarantees that it will not be abused. The employer is required to continue employee benefits for, at most, 12 weeks a year if family or medical leave is used. The bill does not apply to businesses with fewer than 50 employees, although we hope that this public policy will become a model for many of those employers to follow. Employers may require employees to use any accrued paid leave as part of, not in addition to the 12 weeks of leave provided by the bill. And employees must provide advance notice whenever possible, and extensive certification is required for leave related to an employee's medical condition. I believe this bill is also good for business because it helps business keep hard-working, highly trained employees in their work force. Such employees might otherwise be forced to leave their jobs if family or medical leave is not allowed and a baby is born or a spouse or parent falls ill.

American companies have long recognized a responsibility to provide leave for funerals, jury duty, and military service. Now firms which granted leave for a death in the family are also recognizing the need for leave for life in a family.

The Family and Medical Leave Act is legislation that is designed to bolster and strengthen the family by enabling working parents to spend time with new children or sick children, and to spend time with a spouse or parent who is in desperate need of care. This new law will ensure that the temporary need to miss work to care for the family does not result in the loss of a job.

I commend my colleague, Senator DODD, for his steadfast commitment to this legislation and to America's families. This law will serve as a lasting tribute to his concern for mothers and fathers, sons and daughters. I look forward to casting my vote in favor of the Family and Medical Leave Act, and I hope that it will soon have the force of law, so that families can use it to take care of themselves while continuing to take care of their business.

Mr. HARKIN. Mr. President, today we have the opportunity to break the gridlock that has held the Federal Government hostage for several years by not only passing the Family and Medical Leave Act of 1993, but by sending it to a President who has promised to sign it. The adoption of this legislation which provides modest protection for U.S. workers during times of family or medical emergencies, signals an important turning point in U.S. work force history. This legislation recognizes the tremendous demographic changes that have occurred since 1950. It also tells our workers, the people who pull the load and pay the taxes, that they are valuable resources and not just another expendable commodity.

Passage of this legislation is long overdue and I would like to take a moment to commend Senator DODD for his outstanding leadership on this issue. It is because of his dedication and tenacity to seeing families protected at times when they are often most vulnerable, that we stand here today and know that in the near future this legislation will finally be the law of the land.

Family and medical leave policies are not just good family policy, but they make sound business sense as well. A recent nationwide survey of businesses by the U.S. Small Business Administration found that since 1990, nearly $500 million was spent to hire and train new workers who replaced individuals needing medical leave. The researchers noted a modest cost of $6.70 per covered employee for providing family and medical leave but concluded that the net cost of placing workers on leave is substantially less than replacement.

Since 1988, Aetna Life & Casualty Co. has provided employees with 6 months of unpaid family and medical leave. Contrary to what the opponents of this legislation might have you believe, they have actually saved money. Aetna estimates that almost $2 million has been saved by reducing employee turnover and the costs associated with hiring and training new workers. Another company, AT&T, estimates that its family leave policies saves the company $15 million each year in replacement costs.

This legislation is also good family policy and responds to our changing workplace. The American work force has changed dramatically since the end of World War II—more women are working, more families are headed by single parents, and more older people need care to avoid institutionalization. Just listen to some of the statistics.

The number of women in the workplace has increased by over 200 percent since 1950. Nearly two-thirds of mothers with children under the age of 3 work outside the home.

The Census Bureau reports that the number of single-parent families has doubled since 1970 and now account for 27 percent of all families.

Because of advances in medical technology and health care Americans are living longer. The elderly is the fastest growing segment of the population. Between 1980 and 1990 the number of people age 75 and older increased by a third.

The Family and Medical Leave Act responds to the needs posed by these tremendous changes in a responsible manner. The legislation provides 12 weeks of unpaid leave for the birth or adoption of a child, or the serious illness of the employee or the employee's immediate family. Recognizing the difficulties leave policies might cause for small employers, the bill covers only businesses with more than 50 workers.

The Family and Medical Leave Act of 1993 replaces the rhetoric about family values with concrete solutions. This bill gives families real protection when they need it the most—when the worker is sick or their child, spouse or parent is seriously ill. It is unconscionable that workers have been forced to choose between their family members or the job they need. Those days are now over for millions of Americans.

Since the mid-1980's public opinion polls showed strong and consistent support for family and medical leave policies. This is sound pro-family legislation that warrants the support of this body.

Ms. MIKULSKI. Mr. President, I fully support passage of the Family and Medical Leave Act. We have tried for 7 long years to help working families by establishing a national leave policy. But, this year is different. We have a new President who cares deeply about this issue.

I am pleased that we have a chance to get this bill into law and I look forward to finally settling this issue

I am here to speak for America's working families—to fight for the men and women who work hard, pay their taxes, care about their communities, and are trying to raise a family.

There was a time when these families could buy a house, own a car, and raise a family on one income. But those times have passed. Most families can't get by on one salary—they depend on two incomes to make ends meet.

Women are usually the ones who must take time off to care for a family member. The United States depends on women in the work force more than any other Western democracy except Scandinavia and Canada. But we pretend these women still live in an Ozzie and Harriet world.

It makes sense to give our workforce leave when it is desperately needed. Family leave is a safeguard for times of family need or crisis. In fact, most families hope that there will never come a time when they have to use it.

Mr. President, this is a good bill. It is fair and it is balanced. It provides up to 12 weeks unpaid leave per year and covers those businesses with 50 employees or more.

It sets a minimum standard so that families no longer have to choose between their family and their jobs. It is especially helpful for those who can't afford to lose their job if they need to care for a newborn or adopted child, or ill parent or spouse. The facts speak for themselves.

Arguments against unpaid family leave are outdated and shortsighted.

Some have tried to say that businesses suffer when parental leave is offered. The Small Business Administration has answered these concerns. Their study from October 1991 showed that overall, it costs businesses more to replace the employee than it would to offer family leave.

All Americans suffer when workers are forced to choose between their families and their jobs. The Family and Medical Leave Act ensures that workers can remain productive members of the labor force while still providing care to their families at critical times.

This bill gives workers short-term job security and allows them to retain their health insurance at a time when they need it more.

Mr. President, the days of Ozzie and Harriet are over. It makes good business sense and common sense to give families the time they need to take care of a crisis and get back to work.

I urge my colleagues to vote for this legislation which we have passed twice before. We owe it to the American people to get this job done.

Mr. BAUCUS. Mr. President, I wish to add a few words of support for the Family and Medical Leave Act which I am cosponsoring.

A national policy that responds to the needs of working families is long overdue. In the past 20 years we have undergone a demographic revolution in both the workplace and in the family. Dramatic changes in work force participation have occurred over these past two decades and now, in a majority of American families, both parents work outside the home.

In times of family crisis, the absence of a fair leave policy is most sorely felt. Many parents are compelled to make the painful choice between caring for their child or losing their job, health insurance, or job seniority. This is clearly an untenable choice. If we fail to address this issue, we will continue to foster an unhealthy environment which forces workers to neglect their responsibility to care for their families. This, in turn, produces unhealthy and troubled children.

Passage of this legislation thus concerns not only our present but also our future. If the American economy hopes to have a healthy, intelligent, competitive work force, it is necessary to create a family atmosphere that can nurture bright, happy children who are tomorrow's workers. It is clearly time to make an investment in America's competitive future by facilitating the development of well balanced families.

The present version of the act is the result of long debate and compromise. It responds to the needs of employees and has also been crafted to give flexibility to employers. It ensures job protection during times of family crisis by allowing an employee unpaid time off for the birth or adoption of a child or the serious illness of the employee or an immediate family member, including an elderly parent. This makes sense to me and to a majority of Americans. In fact, polls show significant support for a family leave policy.

Finally, I believe that this legislation is cost-efficient and will not break the bank. In fact, a study found that the replacement of employees facing family emergencies is more costly to employers than the alternative arrangements companies make to adapt to limited family leaves. This study also estimated that the cost of providing family and medical leave to be less than $6.70 per eligible employee per year. This does not appear to be an unreasonable cost.

Accordingly, I believe that passage of this legislation constitutes a sound investment in the challenging task of nurturing families and in the process creating a superior, loyal and productive work force. It is time for America to look to the future and this is a step in that direction.

Mr. D'AMATO. Mr. President, I rise today as an original cosponsor to add my support for S. 5, the Family and Medical Leave Act. This important legislation will help families by making it easier to cope with the illness of a loved one or experience the joy of a newborn or newly adopted child without fear of losing one's job. It is sensible legislation that cements the prominence that families rightly deserve in our society.

This bill will provide up to 12 weeks of unpaid leave for the birth or adoption of a child or the serious illness of an employee or immediate family member without loss of job or health benefits. In addition, an employer would be able to use an employee's accrued paid leave to make up any part of that 12-week period.

Also, this bill will only apply to employees of companies with 50 or more employees who have worked for at least 1 year and 1,250 hours. Employers would be able to exempt their key employees from coverage and would be able to recapture medical insurance premiums if an employee who is able to work does not return to work.

Employers would be able to require 30 days notice for a request of leave and could ask an employee to certify the seriousness of an illness by obtaining a second opinion. Serious illness is defined by the bill to include a condition that requires the continued care of a health care provider or hospitalization.

Mr. President, working men and women in our Nation need to know that they will be able to return to their jobs should they, because of a family or medical emergency, need to take extended leave. This is a rational approach to protecting the integrity of the family unit without overly encumbering business in America. As a longtime supporter of this legislation and a cosponsor of this bill, I am pleased to support the passage of S. 5.

Mr. SARBANES. Mr. President, I rise in strong support of S. 5, the Family and Medical Leave Act. This legislation, which would provide 12 weeks of unpaid leave for employees to care for a seriously ill child, spouse, or parent, or in the event of the birth or adoption of a child, is long overdue. I deeply regret that similar legislation passed by the Congress on two previous occasions was vetoed by President Bush and look forward to working with an administration which has already expressed its support for this proposal.

In discussing this matter, it is important to note that the United States is the only industrialized country without a national family leave policy. In fact, almost every country in the world has a national parental leave requirement, including our most successful economic competitor in Western Europe and Asia, and these nations typically have requirements which go beyond those of the legislation we are considering today with respect to leave duration and income replacement. For example, in Europe, 5 to 6 months of paid leave is the norm for new mothers, and even Japan, which is often behind European nations in terms of labor standards, provides 12 to 14 weeks of partially paid leave with full job guarantees.

In contrast, we are attempting to pass once again a proposal which merely provides job protection for workers with newborns or who face family or medical emergencies. It does not require employers to pay such workers for this leave and excludes entirely employers with fewer than 50 employees. Workers are not automatically entitled to such leave and must, in fact, go through a very stringent screening process to demonstrate that they have a sick child, a sick spouse, or a sick parent, and that their presence is required in order to bring them back to health.

Available evidence shows that this fundamental protection is not widely offered to most of our Nation's workers. According to a recent survey by the U.S. Chamber of Commerce, 82 percent of employers provide no leave to care for sick children, and 85 percent provide no leave for elder care. In fact,

the most recent Bureau of Labor Statistics survey shows that only 37 percent of female workers in firms with more than 100 employees are even offered maternity leave—and employment by the mother is increasingly critical in keeping families above the poverty line.

The Family and Medical Leave Act's guarantee of job security during family or medical emergencies is especially important to low-wage employees. A study by the Institute for Women's Policy Research has shown that working women who do not currently benefit from employer-provided leave had average annual earnings $5,000 lower than women with job-guaranteed leave. The study showed further that lack of job-guaranteed leave leads to even further losses in earnings, with working women without leave losing 86 percent of their prebirth earnings after childbirth while women with leave lost 51 percent of their prebirth earnings. Clearly, job guarantees are critical to low-income workers because they are most in need of income and health insurance protection after a family crisis. The appropriate question is not whether low-income workers can afford to take unpaid leave, but whether their jobs will be protected when they must take leave for a family or medical emergency.

While much has been made of the burden this legislation will impose on business, the facts again show otherwise. A 1992 study conducted by the Families and Work Institute concluded that providing parental leave is more cost-effective for employers than permanently replacing employees who must take leave. The cost of accommodating an employee's unpaid leave averages 20 percent of the employee's annual salary as compared to 75 percent to 150 percent for the cost of permanently replacing an employee. The study also found that 94 percent of employees taking leave returned to the company and 75 percent of supervisors concluded that such leave had a positive overall effect on the company's business.

A study by the General Accounting Office also found the cost to employers of providing family and medical leave to be minimal. In a cost estimate review, the GAO found that fewer than one-third of workers taking extended family or medical leave are replaced, and for those who are, the associated cost was generally less than the wages and benefits paid to the absent workers before they took leave. In addition, although the GAO acknowledged the benefit of such legislation to employers in retaining a loyal and experienced workforce, this was not factored into the cost estimates. Similar experiences are reported by individual employers who provide family leave policies. The Aetna Life & Casualty Co., which provides its employees with up to 6 months of unpaid job-guaranteed family leave each year with continued benefits and seniority, estimated in 1992 that its family leave program saved $2 million annually in reduced employee turnover and lower hiring, training, and replacement costs.

Uniform standards like the Family and Medical Leave Act help businesses maintain a minimum floor of protection for their employees without jeopardizing or decreasing their competitiveness. It responds to an increasingly serious societal concern in a manner no different than the Fair Labor Standards Act, the Social Security Act, the Occupational Safety and Health Act, and title VII of the Civil Rights Act. Each of these laws responded to identified needs of American workers and in each case, Congress concluded that establishing a minimal level of protection for all workers was an appropriate response. The legislation we are considering today is consistent with these principles.

Mr. President, it is time that this country reaches the point where parents are not forced to make a choice between looking after their sick child or keeping their job. While we hear much talk from opponents of this legislation about family values and being pro-family, we have been unable to finally enact legislation which would allow our citizens to meet pressing family obligations related to the birth, adoption, or the health of a child or other family member. Many employers have such arrangements with their employees, and I salute and commend them. However, sufficient instances remain in which this is not the case to make it reasonable to try to move legislation to address this critical issue.

The Family and Medical Leave Act will assist many Americans in balancing the demands of the workplace with the needs of their families. As a matter of common human decency, it attempts to take some of the stress and strain off American families without placing an undue burden on American employers. I strongly support the passage of this important legislation and urge my colleagues to join me in ensuring its passage and subsequent enactment.

The PRESIDING OFFICER (Mr. AKAKA). The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I thank my colleague for her courtesy.

Mr. President and Members of the Senate, we have been on the bill since 11 a.m. under orders limiting consideration of debate only with no amendments in order.

I have discussed the matter with the managers, the Senators from Connecticut and Kansas. They indicate that they may be prepared to proceed with some amendment. I note the presence of the Republican leader on the Senate floor.

I would like, through the Chair, to direct an inquiry to the Republican leader pursuant to private discussions which he and I have had on this subject.

I inquire as to—having noted the distinguished Republican leader's statements of an intention to offer an amendment with respect to the ban on gays in the military—whether the Republican leader is prepared to indicate at this time his intentions in that regard, and in what manner he would like to proceed, so that we can make a determination on how best to achieve prompt action on this bill.

Mr. DOLE. Mr. President, if the majority leader will yield, I say to the majority leader, it is not our intent to offer any amendment today or any second-degree amendment to any amendment. We are having a series of meetings discussing the amendment and when we will offer it. It may be that we will ask consent at an appropriate time to consider a freestanding piece of legislation, because I do not want anybody to have the impression we might be holding up the family leave bill, even though I would not mind doing that.

But I think this bill will finally pass. I know the Senator from Connecticut will be happy when that day comes.

In any event, I can assure the majority leader that before any amendment is offered dealing with this subject matter, I will so advise the majority leader. It will be no surprise. There will be no effort to come in behind somebody else's amendment.

Mr. MITCHELL. Mr. President, that was my concern. As the distinguished Republican leader knows well, under the Senate rules, if Senator KASSEBAUM or some other Senator were to offer an amendment on any subject—including relating to the pending bill—without an understanding, any Senator would then be free to seek recognition and offer any amendment dealing with gays in the military as a second-degree amendment.

Under the rules, I would ordinarily have the opportunity to prevent that from occurring. I merely wanted to make certain—and receive the assurance I just received—that that will not occur. And we can go ahead and proceed with these other amendments until such time as we discuss the matter further.

Mr. DOLE. Mr. President, the majority leader is correct. It can be done. But I would just suggest that we are working on this side. We had a number of meetings; a couple this afternoon.

I do not anticipate that happening. If it should, I would be happy to join the majority leader in a tabling motion.

Mr. MITCHELL. Mr. President, I thank my colleague, and I now wonder if the managers are prepared to get an agreement to take up amendments relating to the bill.

Mrs. KASSEBAUM. Mr. President, it is my understanding, and we are checking with Senator GREGG now to see if he will agree to a 2-hour time agreement, the time equally divided, on his amendment, which I believe will be the first one up for consideration.

Mr. MITCHELL. Mr. President, while they are waiting, I understand the Senator from Colorado wishes to address the Senate on the bill. I yield the floor so he may be able to address the subject matter.

I hope the managers can work out and obtain an agreement shortly, proceeding as the distinguished Republican leader has suggested.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. I thank the distinguished majority leader.

Mr. President, I rise to express my support for S. 5, the Family and Medical Leave Act of 1993. The reason I have chosen to speak on this issue for a moment is because I am one of the converts.

Some of my colleagues know I did not support the early versions of this legislation in the other body, when I was in that body, because of my concerns for its impact on small businesses. I would have preferred, like many of my colleagues, a self-imposed system by which businesses would provide family leave without a Federal mandate. I was concerned, as an example, that the extended absence of just one worker in a company of 10 employees would be felt deeply in a small business climate. But that is not the bill we will have before us, or the one we are now discussing.

The fact is a provision in this bill addresses that concern I did have, as this bill would be directed to only those businesses that employ more than 50 individuals. It is my understanding that that itself would exempt about 90 percent of American businesses. In my State of Colorado, I know it exceeds that.

The cost of this bill was of similar concern. That cost has also been challenged. A study commissioned by the Small Business Administration concluded that it costs employers less to place the employee on leave for a medical emergency than it does to terminate the employee and recruit, hire, and train a new worker.

In addition, a 1988 GAO study concluded that there is evidence that shows two-thirds of employers shift the existing work force to cover the absent worker's duties, rather than hiring temporary workers which are consequently hired through temporary agencies, still raising the costs.

Many other studies have also concluded that it is much more cost effective to implement a leave policy in our Nation's work force than to force families or employers to make the difficult choices to leave or to be terminated from their jobs. That is some tough choice, Mr. President.

This bill gives the U.S. citizens the same privileges and protections as those enjoyed and employed by the rest of the industrialized countries. Currently, our sophisticated country stands alone among international competitors as the only country to not have a minimum family leave standard for its workers. As Senator DODD has pointed out, in fact, nearly every other country requires some paid leave for its workers. S. 5 provides no pay.

There is much that needs to be done to make jobs and family life more compatible. The Family and Medical Leave Act would be a modest beginning and a simple commitment to this effort.

We have talked long enough about the need to recognize the importance of families in our society. In the past 7 years, legislation such as we are dealing with today has had 17 days of hearings, 11 markups, and 6 bipartisan compromises. The time to enact a piece of legislation that finally gives consideration to the family is long overdue.

I am confident that that bill accommodates the legitimate concerns of the business community and the families, and I would support it without weakening amendments.

Gays in the military is a totally separate and unrelated issue that would be dealt with in totally separate debates.

I recommend that we do not muddy the waters and hope my colleagues will pass S. 5 undiluted.

Mr. HELMS. Mr. President, there is very little point in dancing around the mulberry bush. Everybody is waiting for "the" amendment, including the Senator from North Carolina.

I imagine that if it were not for this amendment, that the distinguished members of the fourth estate would not even be in place in the gallery.

Mr. President, the people of North Carolina are proud that our State is the home to a great many of the world's most famous and decorated combat units. More than 25 percent of the troops who fought in Desert Storm came from our State.

Let me run down the list. As the Senator from North Carolina, I am privileged to represent, "America's Guard of Honor," the 82d Airborne Division; the 2d Marine Division; the Special Operations Command; the Special Forces, meaning the Green Berets, along with many Marine Corps and Air Force fighter squadrons.

Mr. President, you can add to that honor roll thousands of guardsmen and reservists, and you will see why North Carolina is not only "First in Freedom," it is "First in National Defense."

On behalf of these outstanding men, women, and veterans all across North Carolina—and I think all of them have called my office three times in the last week or two—I have pledged to do everything in my power to oppose any change in the policy which excludes homosexuals from military service.

When the election returns poured in last November, all of us heard the media chorus triumphantly sing the praises of our new President as a different leader and a different Democrat. The liberal media gleefully proclaimed that Mr. Clinton would stand up to the militant special interests in his party. We heard ad nauseam flatout guarantees about "revitalizing our economy," "reinvesting in America," "putting people back to work," and dealing with troubles in Iraq and Bosnia.

But what happened? In the past 2 weeks, the liberal media's hero has broken promise after promise. He has made clear that his top two priorities for this Nation are waging war on unborn children and waging war on the Armed Forces of the United States.

President Clinton is on record, in writing, in case anybody doubts it, as "loathing the military." His determination to invite homosexuals into the armed services can certainly be taken by America's soldiers, sailors, and airmen, as proof positive that the President is, at best, insensitive, and, at worst, contemptuous of the military way of life.

President Clinton and his advisers—many of whom have never gone near the uniform and are proud of that fact—have ignored the warnings of General Powell and his service chiefs. The Joint Chiefs pointed out that lifting the ban on homosexuals in the military will destroy the Armed Forces as an effective and efficient fighting establishment by hurting recruitment, undermining morale, and opening the military to distasteful political decisions about promotions, housing, benefits, and behavior. It seems to this Senator that the years of combined combat experience of the Joint Chiefs count for nothing in the face of the radical minority of homosexuals and their allies in the White House.

Mr. President, the American people understand what is going on. Otherwise, there would not have been so many telephone calls and telegrams and letters. Just take a minute and listen to the thousands of outraged citizens who are lighting up phone lines across Capitol Hill. I have heard from active duty soldiers, officers, and enlisted men. I have heard from black veterans, Jewish veterans, Catholic veterans. They know that the issue here has nothing to do with discrimination in the military and everything to do with what the Washington Times called the other day, a good old-fashioned grab for power.

When it comes to valor on the battlefield and a sophisticated understanding of our military, I yield to distinguished Americans like BOB DOLE and JOHN MCCAIN and STROM THURMOND and

Colin Powell and many, many others. I do, however, wish to direct the Senate's attention to the bigger problem that this country is facing.

This attempt to remove the military's ban on homosexuals is the number one priority of the homosexual political movement. They know that the Armed Forces are the last bastion of traditional morality in this country. Once the homosexuals movement breaks down the doors of the Army, Navy, and Air Force, what is next? Homosexual marriage, adoption of children, or destroying organizations like the Boy Scouts; and, yes, they have tried to do that.

If you do not believe me, listen to what one so-called gay activist told Newsweek magazine recently:

When Bill Clinton lifts the ban, he is going to push national acceptance of homosexuality. It's not just going to push people out of the closet into the military—it's going to push people out of the closet all over the country. It's going to be OK to be a homosexual.

What is underway here is the governmental stamp of approval on the homosexual movement, the lifestyle; and that means making sexual orientation a protected class, sanctioning quotas in hiring and promotions, benefits for same-sex marriages, on down the line.

Transforming the military into the radical's social laboratory is the most important first step in the transformation of all of American society.

The January 28 editorial in the Washington Times forecasts what newspaper articles will look like in 1996, should the Congress let Mr. Clinton have his way on this issue.

Four years after battling their way into military barracks, gay and lesbian members of the armed services say the political opposition they overcame has been replaced by a "pink curtain" of ignorance and homophobia that has come down on their aspirations of promotion and pay increases.

It's our glass ceiling, said the Pentagon staffer who asked not to be identified. The difference is we can't even see our way to the top because of the hatred. Bill Clinton has a long way to go before he makes good on the promises he made back in 1992.

Clinton officials have promised to revive efforts to add sexual orientation to the nation's anti-discrimination statutes, a move which Congress narrrowly rejected two years ago.

Now that is the forecast by a newspaper editorial on what newspaper articles in the future will say.

If that is not a nightmare scenario, it will do until one comes along.

Mr. President, I have heard over and over again that those who oppose President Clinton are somehow enemies of civil rights, that homosexuals simply want nothing more than legal rights held by Jews, Catholics, blacks, and others. As the philosopher once said, "that is nonsense on stilts." The American people view the organized homosexual movement as a gang demanding not tolerance or an end to discrimination but special privileges, legitimacy, and government-enforced approval of their way of life.

It is amazing, at least to this Senator, that the liberal media have allowed repugnant groups like Queer Nation and ACT-UP to hijack the rhetoric and trappings of the black civil rights movement. One of our colleagues in the House went a step further by chastising the Chairman of the Joint Chiefs of Staff for not equating the history of blacks in the military with the so-called struggle for legal privileges for homosexuals. In a stinging rebuttal General Powell destroyed this ridiculous and offensive comparison, and I quote:

I am well aware of the attempts to draw parallels between this position and positions used years ago to deny opportunities to African-Americans. * * * I can assure you that I need no reminders concerning the history of African-Americans in the Defense of their Nation and the tribulations they faced. I am part of that history.

Skin color is a benign, non-behavorial characteristic. Sexual orientation is perhaps the most profound of human behavorial characteristics. Comparison of the two is a convenient but invalid argument. I believe the privacy rights of all Americans in uniform have to be considered, especially since those rights are often infringed by the conditions of military service.

As Chairman of the Joint Chiefs of Staff, as well as an African-American fully conversant with history, I believe the policy we have adopted is consistent with the necessary standards of good order and discipline required in the Armed Forces.

Mr. President, I said at the outset that I have the honor to represent the world's most famous soldiers and Marines. I would be derelict in my duty to them if I did not conclude my remarks by reminding the Senate that the bottom line in this debate, no matter how many people deny it, is not this group's rights or that group's privileges. It is in fact, what can the U.S. Senate do to ensure the men and women of the military know that their needs come first and they will not be held to the political fads of the day.

Has anyone here or at the White House bothered to ask the young paratrooper at Fort Bragg or the Marine gunner at Camp Lejeune how safe he would feel if he knew that when he went into battle his chances of survival would be threatened if he had to receive a blood transfusion from someone admitted into the military because of Mr. Clinton's rush to appease a political minority to whom he made a flatout guarantee last year during an election? Would the young Navy corpsmen think twice about treating another sailor if he suspected he had AIDS? Homosexual and bisexual men make up over 80 percent of the AIDS virus for months. If we change the military's current policy on homosexuals we are putting our young soldiers, sailors, and marines in danger.

Mr. President, on March 12, 1992, "NBC Nightly News" reported that the Pentagon was already treating more than 10,000 soldiers and dependents infected with the AIDS virus and more than a third of them are on active duty. By the way, since many of my colleagues have lamented the fact that the Pentagon has spent millions drumming promiscuous homosexuals out of the military, NBC News predicts that the military will spend over $3 billion in this decade treating those already in the service with AIDS.

Mr. President, members of the National Basketball Association rose up in arms—do you remember?—when they realized that a famous player with AIDS might bleed on them. Basketball is just a game, war is not.

War is a matter of life and death, not civil rights or social experimentation. I refuse to believe that this Congress or any Commander in Chief would intentionally, knowingly, consciously weaken our national defense and put the lives of America's fighting men and women in danger in the name of "gay" rights. We have the constitutional duty to guarantee that the security of the country is protected by the finest fighting forces in the world and those forces will remain strong only if the current ban remains in place.

Mr. President, I thank the Chair and I yield the floor.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. WOFFORD. As a former Army Air Corps veteran of the late part of World War II, I have tried to follow with due respect the extensive and remarkable concerns for the future of our military and the personal behavior of Americans by my senior colleague from North Carolina. But I do not think the millions of people in this country, the working Americans who have waited for the Family and Medical Leave Act to get off dead center, are going to appreciate any diversion, any taking our eyes off of the prize of finally breaking the gridlock here now and ending the diversionary politics. We need to get things done that are vital to the future of our families and our economy.

So I am proud to be a cosponsor of this legislation. And as a new member of the Committee on Labor and Human Resources, I salute Senator DODD for his efforts during the last 7 years on behalf of America's working families, and I salute Senator KENNEDY, as chairman of the committee, for his leadership, and all those who have pushed this bill up the hill and who are not going to let it roll down the hill this time because of diversionary social issues that divide us and take our eyes off that prize.

This bill will help America's working families by sparing them the terrible choice between keeping their jobs and caring for their young children or older parents. This legislation of course is

just one part of the commitment we must make to reinvest in the American family.

Universal and affordable health care with immunization for all children, opening the doors of college opportunity to every young person, a commitment to our schools and to early childhood programs like Head Start are all essential to a better future for our children.

But this Family and Medical Leave Act is at the front of that effort. It will help millions of working families by allowing them to be both responsible parents and productive workers. The cost is small. The benefits are great.

And a few years from now, I am sure that most of those who would now oppose this bill, and in recent years have blocked it, are going to say: It helps, it raises morale, it increases productivity. Why did we not do it sooner?

Last Friday, President Clinton held a national conference call with Americans who will directly benefit from family and medical leave. One of the participants was Joann Mapp, who works in the Philadelphia Police Department's data processing unit. Joann Mapp is the single parent of 5-year-old twins, a girl and a boy, who have had serious short-term medical problems. During her conversation with the President, Joann Mapp called this legislation "a blessing" because in her words, "I have the security behind the bill giving me the time to take off to care for my child when she's sick."

Mr. President, this legislation is indeed about security—security for the American working family. Let us recognize the changing nature of work and family in this Nation and enact family and medical leave. Let us invest in our families and in our future. Let us not be diverted by any other issue. Let us do it now.

Mr. President, I ask unanimous consent that an article from the January 30, 1993, Philadelphia Inquirer on President Clinton's call to Joann Mapp be printed in the RECORD.

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

[From the Philadelphia Inquirer, Jan. 30, 1993]

A PHILADELPHIA MOTHER TELLS CLINTON A BILL ON LEAVE IS NEEDED

(By Thomas J. Gibbons, Jr.)

While some supervisors at police headquarters might raise an eyebrow at an employee spending time on a personal, long-distance phone call, they made an exception yesterday for Joann Mapp.

The caller was the President.

In a conference hookup from the Oval Office, President Clinton listened as Mapp, who works in the Police Department's data processing unit at the Police Administration Building, told how legislation that would require employers to grant workers unpaid leave for family and medical emergencies would benefit Americans.

"If you could pass this bill, it would just be a blessing," Mapp told Clinton at the end of her conversation in which she recounted how a sick daughter could have cost her her job.

"This bill being passed will ensure that I won't * * * because I have the security behind the bill giving me the time to take off to care for my child when she's sick," said Mapp, who has been a city employee for the last nine years.

Mapp, 37, participated in the nationwide telephone call with 10 other families. She was proposed as a candidate by Ann Cohen, her union leader, who was asked late Thursday by union officials if she knew a union member who would benefit from passage of the bill. Cohen said she knew that Mapp had experienced a problem with a sick child.

"I called her up and asked her a few questions," said Cohen, president of the American Federation of State, County and Municipal Employees Local 1637. "She's an articulate young woman. I asked her did she want to talk to the President * * * and here we are."

When Mapp arrived at work yesterday, she was accompanied by her children, 5-year-old twins. While daughter, Alia, and son, Ali, waited, Mapp finished a project left from the day before.

Then she headed for the auditorium to wait for the call from the White House.

Shortly before 11:30 a.m., the phone rang. Television cameras trained on Mapp. Reporters, who were monitoring the conversation, began taking notes. Clinton first spoke to several other people. Then it was Mapp's turn.

"Are you on the line?" asked Clinton.

"Yes I am," replied Mapp.

"Could you tell us a little bit about your story?" he asked. Then in a clear, steady voice, Mapp complied.

"I'm a single parent. I work in Philadelphia, Pennsylvania. I have a girl and a boy, twins," she began.

She recounted how when her daughter was 2, the child was hospitalized for salmonella poisoning. "I had to take off from my job to stay in the hospital with her and care for her," she said.

A year later, Alia was stricken with hepatitis, which necessitated another stay at home for Mapp. "But unlike your other callers, my daughter's sickness was short-term, but if it had of been a long-term sickness, and I didn't have time where I could stay home with her, your bill would be a blessing because then I would be allowed to stay there and care for my child."

After Clinton expressed his appreciation, and Mapp thanked him for "allowing me to speak and represent the people in Pennsylvania," her co-workers in the auditorium broke into applause.

"I'm still excited," she said later in the day. "I was very nervous, but I didn't want to get too emotional."

Clinton told the families during the conference call: "I hope I get to sign this bill next week. If it happens, it will be because of people like you and for people like you."

Clinton, joined by Vice President Gore for the half-hour group conversation, told the callers he was determined to remember that "these matters that we discuss and vote upon here really do affect real people out in our country."

Family-leave legislation is on a fast track for congressional approval after being vetoed last year by President George Bush, who argued that it would impose an undue burden on businesses.

The legislation would require employers to give workers up to 12 weeks of unpaid leave to care for a newborn or a sick relative. Companies with fewer than 50 workers would be exempt.

Mr. WOFFORD. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I rise to comment on the bill, prior to the time when we begin amending it, with a feeling of some concern because family leave and the ideas described in the bill are things I believe in very strongly. Prior to coming to the Senate, I earned my living as a businessman. I was the chief executive officer of several businesses. We always practiced the kind of family leave that is described in this bill and we found, frankly, that it was good practice. We did it because of market conditions; that is, we wanted to hang onto the good employees that we had. We recognized that giving them this benefit would cause them to stay with us when they might otherwise want to go to some other employer who might give it to them.

I can cite all kinds of examples where giving family leave was sound business practice, and I find as I read through the report that I am agreeing with the majority and the things they are saying about the importance of family leave again and again. At the same time, however, Mr. President, I find that I will have to vote against this bill, not because family leave is not a good idea, but because it falls in a category that I found when I was campaigning for the Senate.

Unlike some of my distinguished colleagues, this is the first public office I have ever held, the first public office I have ever sought, other than an aborted attempt to get on the school board one time, which fortunately failed.

In the campaign, the one thing I heard again and again as I went around the State of Utah from local officials and State officials, members of the State legislature was their concern about Federal mandates that went unfunded. They said these mandates are breaking local government. The Federal Government, in a very worthwhile effort to take care of some concerning problem instructs us that we must do this and we must do that and then lays down a set of regulations which are not geared to our local situation and which make it impossible for us to meet without raising taxes. What they really do, they said to me, is create a circumstance where they get the credit for doing something worthwhile and we get the bill and we at the local level are forced to raise taxes and face a hostile electorate because the Federal Government decides it would be a good idea if we did this or that.

As I read through this bill, I find exactly the same philosophy. The Federal Government is mandating not local government in this case but local businesses to do this, that or the other with respect to family leave. All of

them are beneficial mandates in terms of the things they can do for people. But in every case, the Federal Government is deciding the standards. They are not accepting any local input, they are not accepting any local conditions and they are creating a set of circumstances which, for some businesses, could create serious hardships and which would result in a form of tax increase. We do not call it a tax increase, but it is the same thing. The Government has mandated increased costs and it comes off the bottom line just as surely as if it were a tax increase.

Let me give an example. This bill calls for an exemption for any business that has less than 50 employees. They say, "So we have taken care of small business. You see, Senator, you don't need to be concerned about your constituency in small business because anybody with less than 50 employees qualifies as a small business and, therefore, is exempt from the mandate of this bill."

By what wisdom did we decide that 50 employees was the measure of whether a business is small or large? I know of businesses, restaurants primarily, that employ as many as 200 or 300 employees but that very clearly qualify as small business and for whom this kind of mandate would be particularly expensive and onerous, even to the point where those jobs might be in jeopardy. It will be of small comfort to say to a woman who is pregnant, "Yes, you can have time off to take care of your newborn child, but you do not need to worry about coming back to work because you will not have a job because we will not have a company." Or "I hire women in that age circumstance. The number of women who are taking advantage of the family leave opportunities has risen to the point that we no longer can stay in business." I realize that is an exaggerated circumstance, but it is a demonstration of the kind of thing that could happen.

So, Mr. President, I suggest to the Senate that to mandate these kinds of benefits without providing funding, that which I heard about in the campaign from the local governments, is a form of tax increase on business that is not thought through intelligently and that will ultimately produce significant hardships.

I refer the Senate to the action that was taken some years ago when, in our wisdom as a nation, we decided we were going to tax luxury yachts. What could be a better way to raise revenue than tax yachts that only the very rich could afford? The unintended result is that we put the yachtmakers out of business and the people who got hurt were the blue-collar workers who made yachts because the rich who buy yachts decided they were going to spend their money on something else rather than pay the excise tax. I hope that we will pay attention to those kinds of unintended results from our good intentions.

I make it clear again in closing that I support the concept of family leave. As an executive, I always practiced the concept of family leave. I can give as many examples as the majority report can on the benefits of family leave, but I reluctantly come to the conclusion that I cannot support federally mandated regulations that do not take into consideration local conditions or the circumstances of individual businesses, and I intend to vote against this bill.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I would like to thank the Senator from Utah for a very realistic appraisal of this legislation. It is not that any of us would not wish to see these policies put in place, as has been said earlier, but we are concerned about what happens when they are mandated by the Federal Government. I think one particular point is worth noting.

What about the case of an employer who has 40 employees? Are not the 40 employees in that company and what they might wish to be able to do to meet a family crisis just as important as the 50 employees in a company who must be provided leave under this bill? I think as we sort through the fairness of this and recognize the fact that half of the workers in this country will not be entitled to leave, it does become harder to justify. Because for someone in a company where there are only 40 employees, a family crisis can be just as tragic and leave from work just as necessary as for someone who works in a company that meets the criteria of 50 or more employees under this bill.

As some have said, they wish it could apply to everyone, but politically they know that will be too difficult. That is a poor reason not to do it if indeed it is so important. I think the fact that the Senator from Utah mentioned the problem from the standpoint of having been a businessman who offered good policies and recognizes, however, the inherent difficulties in trying to set the parameters from here, it becomes very obvious that there are winners and losers even though we might wish, with the best of intentions, for only winners with this legislation.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me comment on the last point. We have a little time before we get to an amendment. This is an example of what exists and has existed for years in law. Arbitrary thresholds have been set. Federal laws are replete with them where 25 employees or fewer are exempt in a whole array of statutes. Why not 20? Why not 19? Why not 26?

In this particular case, a strong effort was made to exempt smaller businesses for two reasons: One is that in a smaller business environment, there is a far greater likelihood that the employer and employee will know each other. Therefore, when circumstances arise affecting adoption or birth or serious illness of a child, there is a far greater likelihood the employer is going to extend those benefits, so there is less concern these kinds of problems will occur.

As the employment force gets larger, it is unfair to expect that the employer would necessarily know everyone or could spend their time to become involved in the circumstances that affect their families. Frankly, the other reason is that we are trying to pass a piece of legislation.

As I mentioned at the outset of my remarks, I would not be standing here offering this bill if, in fact, what our colleague from Utah did in his practice was happening today. But as I cited statistically from the Chamber of Commerce and the Bureau of Labor Statistics, regrettably it is not occurring. In fact, when a survey was done of employers in the country about whether or not they would move in this area, almost 65 percent said we have no intention doing this at all unless the State or the Federal Government requires us to do it. That is not exactly welcome information. When only 37 percent of employers in this country, despite 7 years of debating this—and I see my other colleague from Utah who was giving stern lectures to businesses on this point going back a number of years—they did not listen to him when he said you ought to do it, it is the right thing to do it. But only 37 percent of employers provide maternity leave. A pregnant woman about to bear a child wants to be at home with that infant and 67 percent of the employers of this country say, "I'm sorry, it is your job or your child." Only 18 percent provide leave for elder care, a parent in the home trying to be with them; around 20 percent on adoption.

How many children do we know of today who are with special needs and care, trying to get families to adopt these children? Please take them in. And yet most State agencies today require a minimum of 6 weeks where one or the other parent will be there for the bonding period. One State in this country requires 4 months of one or the other parent being there full time to be with that newly adopted child. Here we are talking about 12 weeks.

I am responsible each and every year for the reauthorization of the special needs adoption legislation. We do it on a voice vote. I have never had a single Member of this body stand up and say I object to the, I think it is $10 million—my colleague from Utah serves with me on that committee—to assist with special needs adoption in this committee. It has never required any debate. Everyone is all for it. What an

irony it is that this body supports special needs adoption, understands the importance of it.

We have families out there that want to engage in adoption practices and bring these children into a loving home and yet only about 20 percent of the employers of this country will provide the leave for their employees to do so. And the same is true with fathers.

So I am very sympathetic to the notion that in the ideal world this ought to be happening. It should not require me to stand here and debate this issue for 7 years, talking about something people ought to be doing, but the fact is it is not happening and there is no indication, no trend lines it is happening at all.

So again I say the standards and thresholds, some are higher, some lower. Plant closing, OSHA, Fair Labor Standards Act, in all of these various provisions, 25 is usually the standard. With 50, we tried to raise it high enough and exempt 95 percent of all employers in the country; 95 percent of all employers are exempt, 5 percent covering about 45, 48 percent of the employment force in the country.

But I found it particularly worthwhile to note that yesterday the National Retail Federation—a million employers in this country are represented by the National Retail Federation, 20 million people work for retailers, small retailers, a part of this federation—strongly endorsed this bill in detail. In fact, the vote of the executive board of the National Retail Federation was unanimous in support of this legislation.

These are business people who finally have said look, this thing makes sense. Why? Fifty-six percent of the 20 million people who work for retailers are women who are grappling with these problems, in many cases raising children on their own, who understand the problem and their employers now understand the problem.

So I hope that as my colleagues listen to this debate and the arguments they would appreciate the fact it is not my intention to come up with a mandate for the sake of coming up with a mandate because I have nothing else better to do. I do not like them either. I would prefer that this happen. I suspect most employers in this country did not want to contaminate their employees with toxic substances or health-jeopardizing circumstances. I presume most employers in this country a number of years ago said you should not employ infants in our factories. I presume most employers in this country said we are going to pay more than the minimum wage, we are going to pay more than that. What do you need to mandate that for?

And yet I think we have all come to appreciate, by and large, that occupational safety and health standards are necessary, not because the majority of employers are jeopardizing the health of their employees but because some do, and a minimum labor standard of a safe workplace is something we were able to develop some consensus around, the same being true with the child labor laws, the same being true with Social Security.

What we are saying here is as a minimum labor standard, not as a benefit. This is not a dental plan I am talking about, or a vacation program. We are talking about something that an employee absolutely needs because of a crisis, not some benefit because of good service somehow but because a basic minimum standard is needed. Again, most employers I think try to be helpful in these circumstances but it is a basic minimum standard in this day and age with so many people facing these problems, with families under siege in this country, with the economic and social pressures they face.

In fact, my colleague from Utah, Senator Jake Garn, whom Senator BENNETT has replaced, and a good friend, donated a kidney to his child. Jake Garn missed votes week in and week out; Jake Garn missed committee assignments week in and week out; Jake Garn did not make meetings back home in Utah week in and week out; and every one of us here applauded what Jake Garn did. He saved his child's life. He got paid for it. We did not say unpaid leave. We did not fault Jake for not being here for his votes. We did not say you are a bad Senator.

Senator KENNEDY, my colleague from Massachusetts, when his son's life was in jeopardy, missed votes right and left.

AL GORE, the new Vice President of the United States, when his son was run down by an automobile in Baltimore, was not around here for weeks. He stayed with his child.

Did anybody say they ought to not get paid? Or you ought to lose your job because you were with your kid? We applauded what they did.

Well, if it is good enough for my friend from Utah, and if it is good enough for the Senator from Massachusetts, and if it is good enough for the Vice President of the United States, why not the average American citizen who faces those crises every day? If your kid is in trouble, your job is not in jeopardy. We maintain your health benefits. Is that really that radical an idea?

I yield the floor.

Mrs. KASSEBAUM. Mr. President, I wonder if the Senator from Connecticut would yield for a question.

Mr. DODD. Certainly.

Mrs. KASSEBAUM. The Senator said that 67 percent of employers do not offer——

Mr. DODD. Sixty-three, excuse me.

Mrs. KASSEBAUM. Sixty-three percent now. How many of those employers would be covered under this bill?

Mr. DODD. I do not have that. I can check on that. I will get an answer for the Senator. I do not have that one here.

Mrs. KASSEBAUM. I appreciate that. I thank the Senator.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I have enjoyed listening to the distinguished Senator from Connecticut. He always makes a lot of interesting points. He certainly is dedicated to this bill, and I understand why he is.

But I rise to speak in favor of progressive policies designed to support the American family. I am a strong supporter of the family. I do not think anybody in this body doubts that. There is an inextricable connection between the well-being of the family unit and the well-being of our society.

I have worked for years to advance family issues in the Senate such as child care and flex time, I think to the fore of America's agenda. And in my own Senate office, long before many others, I have had longstanding policies for family leave, flex time, and job sharing and put into practice the ideas I have supported.

I recognize the need for family and medical leave. For millions of American families, the conflicts between work and family are unavoidable. Senators on both sides of this issue I believe are struggling with how best to help families cope with these conflicts.

I agree with those who think that we can play a role in providing a better environment for work and family.

I firmly believe, however, that there are far better alternatives to this bill. In the past, I have led efforts to pass these alternatives, particularly the American Family Protection Act. And, I will continue to press for the right kind of family legislation.

Unfortunately, the bill we have before us would harm, not help, America's families:

By imposing a Federal mandate for 12 weeks of unpaid leave, it robs employers and employees of personal freedom and flexibility in designing their own benefits packages.

By excluding small businesses, it covers only 50 percent of America's work force and only 5 percent of its businesses.

It is biased in favor of upper-income Americans and will foster a bias against hiring women of child-bearing age.

By imposing additional costs on business, it will destroy jobs and ignores the fact that we cannot have a strong family policy without a strong economy.

The alternative approach that will be offered avoids all of these pitfalls:

By creating tax incentives for businesses to offer family leave, it helps offset the costs to employers who offer

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this benefit without undercutting the freedom of choice of employers and employees alike.

By focusing its benefits on firms with fewer than 500 employees, it targets those businesses that are least likely to be able to afford to offer family leave benefits.

It does not discriminate against women, the poor, and minority groups who work in greater numbers in America's small businesses.

By defraying the costs of family leave benefits to employers, it preserves jobs and helps keep American goods competitive abroad.

In plain truth, the issue is one of means, not ends. No Republican Member I know, and not one employer I have ever spoken to, disagrees with the goal of this bill. But many strongly object to the imposition of a new Federal mandate. They strongly object to the Federal intrusion in their businesses. Method, not motive, drives the debate on this issue. Design, not purpose, has created the opposition to this measure.

As we debate this bill, we should ask ourselves four basic questions:

First, will this bill solve the conflicts between family and work that most Americans face?

Second, will this bill preserve the personal freedom and flexibility of American employers and employees?

Third, will this bill provide benefits equitably to all Americans?

Fourth, will this bill help the United States compete in the global marketplace or achieve full economic recovery?

Unfortunately, the answer to all four of these questions is absolutely not.

The first major problem with this bill is that it fails to do the job. It does not address the tensions between work and family that most Americans face. First, it fails to cover a vast segment of the American work force. Second, for parents who take time off after the birth or adoption of a child, it fails to provide sufficient time for the bonding process between parent and child, which is a principal objective of this bill.

Despite the impression some may have about the number of workers able to receive benefits under this bill, it will cover only half the American work force. In a weak attempt to limit the damage of its costly and burdensome mandate approach, the sponsors have excluded businesses with fewer than 50 employees. That means that almost half of U.S. working family members and the employees of 95 percent of all U.S. businesses are not even eligible for these benefits despite the mandate that this bill would require.

Thus, on its own terms, this bill fails to provide benefits for vast numbers of Americans.

Moreover, this bill's 12-week unpaid leave period is inadequate to achieve what it sets out to do. Protecting jobs for individuals who must leave work to care for seriously ill children or elderly parents is an important objective. It is also obvious that many serious illnesses do not confine themselves to 12 weeks.

Likewise, it is the position of many child development experts that 12 weeks is insufficient for parent-child bonding. This process, which is crucial to an infant's later socioemotional development, is not one that is completed in a mere 12 weeks. The most important period extends over many more months, and the process as a whole extends over years.

Surveys strongly indicate that working parents want the flexibility to spend more than 12 weeks with their children following birth or adoption. That means that any help the Congress provides in this area ought to extend an option to spend more than 12 weeks. The most recent Census Bureau data reveal that 67.1 percent of all mothers remain at home with a newborn after the first 12 weeks have passed.

In fact, almost 50 percent of new mothers, according to this Census Bureau data, do not work for pay at all during the first year of their newborn's life. A full half of all new mothers decide not to work during the first year. And, the evidence unequivocally suggests that fully half of the women who left work for the birth or adoption of a baby expressed the desire to remain at home for the first 2 or 3 years of their child's life. A full 39 percent expressed a desire to remain with their new child until he or she started school at age 6.

Maybe the Census Bureau got it all wrong. But, when one adds it all up, it appears to me that these facts clearly indicate that the mandates of this bill miss the point—they stack up poorly against the desires and needs of working parents.

Our objective should not be to mandate a one-size-fits-all 12-week unpaid leave period but rather to facilitate ways for employers to offer working parents the kinds of family-related leave benefits that individual couples need.

The second major problem with this bill is that it undercuts the personal freedom and flexibility of American employers and employees to devise benefits programs that will best suit their individual needs.

Americans are not interested in having Congress make these decisions for them. Regardless of the well-intentioned motivations of Members of the U.S. Congress, people are clearly telling us that they do not want the Congress to lock them into a one-size-fits-all policy. They want room to maneuver, room to negotiate.

The fact is that this legislation will force a benefits tradeoff for all employees, not just those taking advantage of leave.

To illustrate, let us talk about an employment situation we can all relate to, the Senate. Each Member of the Senate has a budget to hire staff. Obviously, as much as we may want to, we cannot provide pay and benefits that exceed available funds. For any employer, including the Senate, there is a limit.

The employers I have worked with refer to the benefits aspect of this equation as the benefits pie. And, like any pie, there are only so many slices to be taken before it is all gone, before all the benefits budget dries up.

What is wrong with Federal mandates is that they arbitrarily force employees into certain configurations of benefits.

An elderly worker who may want additional retirement benefits may lose the opportunity to gain this piece of the pie because we in Congress are mandating family leave benefits.

Single workers who may want more vacation time may lose that option. Workers with teens who may have more interest in profit sharing for college expenses may lose those important options. You could go on and on about the different options and different fringe benefits that people would want and that will be foreclosed to a degree because of the mandate we are requiring in this bill.

That is precisely why working Americans are telling us that they want choice and flexibility with regard to employer fringe benefits. Without this choice, without this flexibility, we cut off the options of the many to satisfy the needs of the few.

We can already see that such tradeoffs will take place. More than half of the businesses surveyed by Gallup for the National Federation of Independent Business say that they will finance the imposed leave with cuts in insurance and vacation benefits provided to other employees.

Automatically they are shortening the list of available benefits that people might choose.

And, that clearly raises the question of whether individuals may prefer the benefits that may be taken away over the Government mandates that will trigger the tradeoff.

The vast majority of working families want the flexibility to choose for themselves what is best for their families. Just look at the results of a recent Gallup Poll. When asked in straightforward terms what benefits they would value most, 99 percent of employees—99 percent—chose fringe benefit areas other than family leave or personal medical leave.

Thus, only 1 percent of all working family members surveyed in this Nation said they would value the leave benefits provided under this bill above all their personally applicable benefits for their families.

In other words, they will not choose these benefits if they had a right not to choose them. We are mandating they

have to take them even though they would choose other benefits.

Evidence also strongly suggests that employees vastly prefer to control their own futures.

Working family members want and demand the ability to choose their own benefits packages. A 1991 study by the Penn-Schoen Organization found that 89 percent of all adults polled in the United States prefer to have employee benefits freely negotiated between themselves and their employers and not imposed by the Federal Government or by Federal mandates.

In another recent study by the American Enterprise Institute, a majority of Americans believed that the Government should not mandate that employers provide benefits such as family and medical leave. This study found that only 31 percent—less than one-third of those questioned—believed that granting unpaid family and medical leave was something that a company should be forced to do.

A 1985 Harris Poll found that a full 73 percent of U.S. employees believed that their employer already made adequate provision for both emergency and regular needs of working parents.

Not all have, but you do not ruin the whole system just to take care of a few, even though there cause must be somewhat just. On the other hand, we ought to find a way to take care of them, and there are alternatives to this bill that would, and without the mandate which bothers an awful lot of people in our society.

When specifically asked—the people in the 1985 Harris Poll—if they were happy with the arrangements made, nearly three-quarters of all working Americans were quite content.

In fact, there are positive trends on family-related benefits. A recent survey by the U.S. Chamber of Commerce found that 99 percent of 6,367 companies questioned voluntarily provided some type of paid fringe benefits to assist working families, such as hospital coverage, profit sharing, dental plans, and/or family leave.

What is more, a recent conference board study found that nearly two-thirds of the companies that participated said that they had expanded work-family programs in their workplaces during the past year.

These respondents cited alternative work arrangements, such as part-time job sharing, telecommuting, and compressed work weeks as arrangements put in place to facilitate a better balance between work and family.

In all, 9 of 10 companies provided benefits far beyond those legally required and 8 of 10 provided such benefits in the form of cafeteria plans under which employees could freely choose the types of benefits must appropriate for their individual circumstances.

Moreover, not only does the data prove that most employers are already responding to these needs, but also 73 percent of working Americans asked in a Harris Poll said strongly that they believe their employer already has made adequate provisions for both emergency and regular needs of parents.

Other evidence strongly suggests that, given a choice, employees prefer to have greater choice in deciding the types of benefits they receive over more benefits, per se. In other words, quality, not quantity, is what people are telling us they want.

A 1986 study by the Opinion Research Corp. found that 70 percent of those employees questioned said that they would pay more out-of-pocket for the opportunity to configure benefits to better meet their own personal needs, rather than have these choices made by the employer.

I think it would even be a higher percentage who would rather make the choices themselves than have the choices made by their Government.

If you listen to what the people clearly want, it is the flexibility to choose among competing fringe benefit programs, not to have Congress mandate what they have to take.

Regardless of the well-intentioned motivations of Members of the U.S. Senate, they are clearly telling us: Thanks, but no thanks; we do not want further Federal mandates. The American people do not want Congress to make these choices for them. But Congress, seemingly, in their own wisdom always seems to want to interfere and make the choices for them.

I believe this argues for flexibility and the freedom to choose. What working families really want, and what in practice has been happening in this area, are things Congress simply cannot address with a mandate of 12 weeks leave. They want flexibility to work out solutions, not one-size-fits-all mandates that will actually limit their employers' options for accommodating their various needs.

The third fundamental problem with the Family and Medical Leave Act is that it will have a discriminatory impact. What I mean by discriminatory impact is that different classes in this country benefit in varying degrees, and that many will receive no benefit at all from this type of mandate. For instance, because of an exclusion based on business size, almost half of the working family members of the United States are not even eligible for mandated benefits under this bill. Almost half will not even be affected, will not receive these benefits; and, yet, we are mandating them throughout society.

Moreover, this bill will benefit mostly upper-class couples who can afford to take unpaid leave, penalizing those who earn less money and have to return to work as early as they can and get fewer benefits.

Some who have been content to vote for this legislation have avoided an uncomfortable and inconvenient fact: A family with no savings cannot seriously consider a quarter-year leave without pay. Conversely, well-to-do families with a sizable nest egg can afford to and will take the time off. Thus, this bill favors the rich. It is no wonder many call this bill a yuppie mandate.

Data from the Small Business Administration indicate that small businesses, those who would be exempt under this proposal, are aware a disproportionate number of women and minorities work in this country. Those individuals who need these benefits the most, and those we think would be more inclined to use family leave benefits as well, are those least served under this bill. I want to quote a sentence from page 34 of "The State of the Small Business: A Report to the President," a report that was transmitted to the Congress. It states: "Women are more likely to be employed in small business."

So who will be hurt most by the discriminatory impact of this bill? Naturally, women. And the research shows that it will generally be female single heads of households, a group that constitutes two-thirds of the women's work force in America, or women married to husbands who earn less than $15,000 a year—precisely those who need child care.

Since small businesses with fewer than 50 employees are exempt, and since small businesses hire a disproportionate number of women, this bill misses the mark. This legislation is not covering those individuals whom the bill's sponsors say it is supposed to help.

If that is not enough, let us address a more insidious discriminatory impact of this legislation: This bill may lead to discrimination against younger women of childbearing age. They are the employees most likely to take advantage of this mandate and, as a result, some employers who have to watch costs will want to avoid hiring them, if possible.

A recent survey conducted by the Gallup organization found that if Congress passed this bill, 40 percent of the employers said they would be less likely to hire young women.

This is a legitimate concern. This bill may foster discrimination against young women as employers try to minimize costs. They certainly are going to try to do that, in order to survive.

So, Mr. President, where does this leave us so far? Helping American families is really not the issue here, because a high percentage of them already are helped by businesses providing family-related benefits voluntarily. The others are not. But we can help them without resorting to a Federal mandate. The issue here is whether the United States should enact an unprecedented employee benefit that will not

help American workers across the board, will favor wealthier Americans, and will discriminate against about half of the American workers, most of whom will be young women, the poor, and minorities.

The fourth fundamental problem with the Family and Medical Leave Act is its economic impact.

If there is one lesson we should have learned by now, it is that our interest in the family simply cannot be separated from our interest in a strong, vital economy. One without the other may be pointless.

It is a strong, vital economy that delivers the jobs to families and keeps food on their tables. It is a strong, vital economy that produces an astounding array of goods and services in this Nation and that makes our Nation the envy of the world.

That is why we have to consider the impact of this act on the economy. And on that score, it also fails to measure up, because it clearly undercuts economic growth and costs jobs.

Mandated benefits by government are not free. If they were, we would give anyone an unlimited amount of time off for any reason and not be concerned for the impact on the economy. Why should we not give an unlimited amount of time off? Why should we not give parents 6 years after the birth or adoption of children? If we are trying to help the family, why do we not help them the right way.

The reason we cannot is because it is too expensive. Mr. President, we can argue all day about the cost estimates of this bill. The plain fact of the matter is that this proposal is not free. It is going to cost billions of dollars. The Small Business Administration estimated the cost at between $1.2 billion and $7.9 billion. Proponents of the bill say that is exaggerated; but no one can argue that this bill will not cost something. It simply is not free.

We all know how estimates here in Washington work out in the end; they never work out lower; they are always higher.

The plain fact is that Government mandates, no matter how well-intentioned, do not contribute to economic recovery and growth. Resources spent to comply with Federal mandates cannot be spent to create jobs.

Every new requirement we impose on business—particularly on small business—renders American industry less able to adapt to changing economic conditions and times. We become, naturally, less competitive.

The desire to facilitate a better balance between work and family is not an issue, it seems to me here. We all want that. But if we want to help American families, we must consider whether this mandated employee benefit is going to help or hinder the United States in efforts to create jobs and compete in global competition. If we pass this bill, we will take away jobs from everybody. We will hurt, not help, the recovery, certainly, if we do not stand up for what is right.

Those are the fundamental problems with the Family and Medical Leave Act. It will not address the tensions between work and family for half of America's working parents. It will undercut personal freedom and flexibility of employers and employees. It will have a discriminatory impact, and it will destroy job growth and economic growth at a time when economic recovery is just starting to gain strength.

The tragedy is that better alternatives are available—alternatives that cover the entire work force, that preserve personal choice, that are equitable toward all groups, and that will not have a detrimental economic impact.

When the Senate considered this bill in the last Congress, I offered an amendment that I believe provided greater flexibility for families. My amendment was not a mandate on an employer to hold a job open 12 weeks or to pay unearned fringe benefits. Likewise, it was not a mandate on employees to limit themselves to just 12 weeks of leave.

My amendment would have given a leave-taking employee a preferred right of rehire to the same or equivalent job and would have returned all of the employer's accrued benefits, such as seniority and pension rights. That would be a major change in labor law. The Hatch amendment covered all businesses, large and small, not just some, and it would have permitted employees to take as long as 6 years unpaid leave for the birth or adoption of a child, or up to 2 years in the case of a serious illness of a family member.

The alternative I proposed did not establish new, mandated, unearned benefits, but rather, preserved only those benefits that an employee had already accrued. As a result, there was no need to exclude 95 percent of this Nation's employers. Furthermore, because this alternative did not consist of an inflexible Federal mandate that forced employers to keep a particular job open for the leave period, it permitted parents more flexibility—up to 6 years, in fact—to choose the length of time right for their circumstances.

Here is an example of how it would have worked. Mary Smith is free to spend more time with her newborn, as much as 6 years. When she decides to return to work, she would simply notify her former employer. If the same job she held when she left, or a similar job, is available, the employer must rehire her. If Mary had 10 years' seniority with the firm when she left, she gets that restored upon her return. If the same or a similar job is not available when Mary is ready to return to work, the employer is obligated to notify Mary of any subsequent opening and offer her that position for up to a year later.

Under the Family and Medical Leave Act, Mary Smith has far fewer options. If she works in a firm with fewer than 50 employees—as do about half of all Americans—she is out of luck. The bill provides no benefits for her. If she works in a firm with more than 50 employees, she is locked into an inflexible, 12-week leave period. Suppose she needed, or wanted, more time with her child. If so, she would lose her rights to employment at that firm and all her accrued benefits. She would have no right of preferential rehire and no restoration of her previous seniority and previous benefits.

The proposed alternative approach sponsored by Senator CRAIG is also better than the Family and Medical Leave Act. It is a flexible family leave plan based on a refundable tax credit for businesses that establish nondiscriminatory family leave policies for all of their employees. It provides a tax credit of 20 percent of compensation to businesses with fewer than 500 employees for a period of family leave up to 12 weeks.

Those firms with more than 500 employees, on the whole, already have voluntary family and medical leave practices. This alternative approach focuses on that segment of business where the problem is most acute: Companies with fewer than 500 employees.

Through a tax credit, this approach actually increases the size of the benefit pie, thereby enabling employers to offer family and medical leave benefits without undercutting other benefits. It does not force employers and employees to adopt a rigid, mandated benefit but allows them to make those choices among themselves. And it does not impose a cost on the American economy that will result in lower growth and fewer jobs.

As I recall, just last year, the Senator from Connecticut was contrasting the United States system to Sweden's, trying to convince us that we were somehow missing something.

"The United States is the only industrialized nation, other than South Africa, that does not have these government mandated benefits," the Senator from Connecticut repeated over and over again.

Is this not just a bit ironic? As the rest of the world moves toward freedom and individual choice, as the rest of the world rejects their experiments with paternalistic human resources policies, here we are in the United States trying to model our economic system after theirs.

I would also like to note that in most other countries that mandate this benefit, businesses are given tax benefits that enable them to lower costs and thus remain competitive. Those governments are at least honest. If they mandate benefits, they pay the freight.

Mr. President, when we put all of this evidence together, I think a few questions are in order.

First, if the vast majority of Americans want freedom of choice and flexibility in choosing workplace benefits, why are we entertaining such an inflexible approach as the one contained in the Family and Medical Leave Act?

Second, if the vast majority of Americans want equitable treatment, why are we entertaining a bill that will exclude almost half of all Americans from receiving any benefits at all?

Third, if the vast majority of Americans oppose approaches that have a discriminatory impact, why are we entertaining a bill that will favor wealthier Americans and foster discrimination against women?

Fourth, if the vast majority of Americans want economic growth and an economically competitive America, why are we entertaining a bill that will impose draconian costs on American business, destroy jobs, and undermine our ability to compete in the world marketplace?

The answer to all of these questions is that we as compassionate legislators desire to address the needs of those who need help balancing work and family.

Now, that is fine and good. We all agree with that. But why have we crafted a bill that so abysmally fails on all these points?

That question is rhetorical. I am a realist. I know how the votes are lined up in favor of this bill. I am making this speech so that we clearly understand what choice is being made here, what options are being forfeited, what costs will have to be borne.

I have outlined alternatives to the Family and Medical Leave Act that do much better in addressing the tensions between work and family that most Americans face. Both of these alternative approaches provide broader, even universal coverage. Both avoid discriminatory impacts against poorer Americans and women. Both create incentives for employers and employees to work out family leave policies flexibly, without a Government mandate. Both will enhance, not undercut, American competitiveness.

It is a tragedy for the American family that this body will approve such a flawed piece of legislation. In this debate, we had a chance to advance the interests of the American family and the interests of the American economy. Instead, in passing this bill, we will do neither.

I ask unanimous consent that an article I wrote be printed in the RECORD.

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

FAMILY LEAVE ACT TAKES WRONG APPROACH

(By Orrin G. Hatch)

While the family and medical leave legislation on Capitol Hill addresses an important issue facing American families, the approach adopted by President Clinton and Democratic congressional leaders—a regulatory mandate forcing businesses to offer 12 weeks of unpaid leave in certain circumstances—represents the worst possible option and harms the interest of employees as well as employers.

This debate is over means, not ends. Both sides want to help American families after a child's birth or adoption or when illness strikes. The real issue is whether we should adopt a one-size-fits-all regulatory mandate that undercuts personal freedom or enact legislation that creates incentives for business to provide unpaid leave benefits without robbing employee and management of needed flexibility.

As Milton Freidman observed 30 years ago, "there is no such thing as a free lunch." By increasing business costs, the Democratic proposal will exact a price in jobs and reduced economic growth.

In designing benefits packages, every employer must stay within the limits of its "benefits pie," the total benefits costs it can absorb and remain competitive. All benefits—vacation, health insurance, pensions, family leave, and others—cost money. Although each piece of the pie can be cut larger or smaller, the overall size of the pie is limited by the company's competitiveness and profitability.

As a result, mandatory unpaid leave would give employers only two choices—both of them bad. They can raise prices—thereby hurting their competitiveness—or they can reduce wages or other benefits. In a recent poll, half the businesses surveyed indicated that they would finance imposed leave benefits by cuts in other employee benefits.

What's worse, such mandates work against positive trends in the workplace today. More and more employers have offered innovative benefits plans in order to attract and keep skilled workers. Recent surveys show that 9 out of 10 companies provide benefits far beyond those legally required. Dramatically more businesses in recent years have offered child care assistance benefits, such as pregnancy leave, parental leave, and flexible scheduling. In addition, surveys indicate that 8 out of 10 companies now allow employees to choose their own mix of benefits through so-called "cafeteria" plans.

Government-mandated benefits stifle such freedom of choice and undermine the ability of management to respond to the diverse needs and desires of its individual employees.

To argue that we can afford to emulate West European countries that mandate unpaid leave is misguided. We should not rush to import the economic rigidities and lagging productivity growth of the European welfare states. Moreover, unlike the Democratic proposal, West European governments provide tax offsets that reduce the economic impact of the mandate.

There are other problems as well. First, in recognition that the proposal would be too costly for small businesses, it exempts those with fewer than 50 employees, thus excluding half the nation's work force. Second, it will most benefit employees with higher incomes, who can afford to take unpaid leave. Third, it will likely lead to a subtle bias against hiring women of child-bearing age, the group most likely to take advantage of unpaid leave.

The tragedy is that there are options that avoid these pitfalls. I have previously proposed the American Family Protection Act, which would have provided a right of preferential rehire for employees who left the work force for up to two years to care for a sick family member and up to six years for a child. In the current debate, I backed an alternative that would have created tax incentives for businesses voluntarily to offer unpaid leave benefits. Either would have covered virtually the entire work force, protected employee-management flexibility, and preserved America's competitiveness.

During the campaign, President Clinton often spoke about "reinventing" government. Unfortunately, by supporting another federal mandate in his first weeks in office, he has reverted to the "Washington knows best" approach that voters thought they were rejecting.

Mr. DODD. Mr. President, prior to the Senator from Utah leaving, I want to note that, while we disagree on this particular issue, my colleague from Utah and I have worked together on a number of other issues, not the least of which was the child care legislation. I would be remiss, before he departs, not to take note of that. He was a great ally in that effort. We ended up with a good child care bill. And while we agree on the goals here, we disagree about the means. He is a great advocate for children in this country, and I want to reflect that on the record.

Mr. HATCH. I thank my colleague for his kind words. It was very meaningful to me. I feel equally toward him. In working together on the child care bill, we went through a lot, and I have to say he hung in there all the way and did a tremendous job.

I feel very proud of the Dodd-Hatch child care bill, which is now serving millions of people throughout this country.

I just want to say, I know the Senator's intentions here are good. I have done my very best to explain why I disagree with him. But I never doubt his sincerity or his desire to do what is right.

Thank you, Mr. President.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me respond to my colleague from Kansas. She asked me a question a few moments ago, and I did not have the information right at hand. I think the issue was, of the 63 percent who are not included or are not receiving maternity leave, what percentage of that number would be exempt under the legislation?

I now have that information. The answer is none, because the survey done by the Bureau of Labor Statistics was a survey of firms that employed 100 people or more. Under that survey, it was their conclusion from a statistical study that 63 percent of female employees have no maternity leave with firms that employ 100 people or more.

I would just add, they also did a survey of those firms that employ fewer than 100 people, and only 14 percent of the women in that survey had maternity leave.

The obvious question is, of those firms who employ fewer than 100, how

many employ fewer than 50? That, I do not have the information on.

But as for the first statistic, which is the most reliable one we have because it is firms that employ 100 or more, 63 percent of the firms in this country provide no maternity leave whatsoever. Arguably, firms with more employees have better packages. So as you move down the line, I suspect that those numbers get worse as you find fewer numbers of employees.

Mrs. KASSEBAUM. Mr. President, not to prolong this, but I only want to say that sometimes we can be confused by figures. The Family and Work Institute stated that 83 percent of employers do provide job-guaranteed leave to mothers, and 89 percent allow mothers to take unpaid leave without requiring the use of accrued sick leave or vacation time.

They go on to say that only 25 percent, however, have written leave policies.

I would suggest, Mr. President, that that is the cause of some of the confusion about figures. Because whether there is a formal policy in place or whether it is something that has evolved as a practice of that particular workplace, while it may not be a formal arrangement, can affect the accuracy of the figures we cite to prove the existence of employer leave policies.

I think, there again, we see some very different figures.

Mr. DODD. I appreciate that, if my colleague will yield. We have looked at that study as well, by the Families and Work Institute. The study was called, "Beyond the Parental Leave Debate, The Impact of Laws in Four States." If that is the same study?

Mrs. KASSEBAUM. That is right.

Mr. DODD. The Senator from Kansas is correct, in terms of how the study reported information. It asked employers to assess the economic impact of leave laws on their businesses.

While it is a different issue, I think it is worth noting here, because the issue has been raised as part of the debate by those who are not in favor of this particular law, that of the employers in Minnesota, Oregon, Rhode Island, and Wisconsin, when asked how they were impacted by the legislation, 91 percent of the employers reported that, they "did not have problems with implementation" of new leave policies. In fact, 39 percent found implementation "extremely easy," while only 9 percent found it difficult.

Employers did not reduce health insurance benefits because of leave laws: 85 percent of the employers reported "no change" in health insurance benefits due to the new legislation.

Again, the argument has been made already today that there was a real danger here that leave legislation would in some way erode existing health care policies. And if State law is any indication of where we are headed, the surveys of those employers would certainly not support that conclusion. The large majority of employers reported that new leave policies caused "no increase" in the cost for unemployment insurance—81 percent said that; health insurance, 73 percent reported that; training, 71 percent reported that; or administration, 55 percent reported that.

Further analysis suggests that for those employers that did not report cost increases, many of the perceived costs reflected general cost increases, especially in health insurance. Company size, I would say, last, had no effect on the difficulty or cost of implementing leave policies. Small employers, those with 50 employees or less, were no more or less likely to report increased costs related to compliance with the laws.

The study also found that family and medical leave policies greatly aided working parents. But I will not go into that.

But, again, statistics are used but I thought it was interesting that one survey did indicate at least in those States that employers found it pretty easy to implement the legislation and were not adversely impacted upon. But I thank the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I think it is valuable to have at least some of these statistics out, even though it may be hard to fit them together. I can only say to the Senator from Connecticut, I hope the statistics that he has prove that indeed this legislation will be beneficial and there will not be the downside that some of us worry about, regarding this particular mandate.

Mr. DODD. I thank the Senator.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I wanted to take just a minute or two to thank the distinguished Senator from Kansas for her leadership in trying to develop some more attractive alternatives in this issue, rather than the bill as reported by the committee.

There is still a continuing concern on my part, and I am sure on that of other Senators as well, about the Federal Government purporting to have a greater insight into the needs of the individual worker than the worker himself or herself. That is what is the main thrust of this amendment.

The Government is picking out one possible fringe benefit that can be offered in the workplace and requiring employers to offer it to employees. It seems to me that the better approach would be to encourage, through either the Tax Code or through other legislation, employers to be more sensitive to the needs of employees as those needs exist on a case-by-case basis in the workplace. And that can be decided through negotiation, through consultation, through the ordinary way in which employees confer with their employers about need for additional vacation time, child care services, and tuition to help upgrade skills that will permit a worker to take advantage of new job opportunities. There are a wide range of employee benefits that we would like to see made available in America's workplaces. But if the Government starts deciding that it is going to make the decision when there is a person who is working who is an elderly employee who might not want to have time off for a new baby in the house but would rather have more flexible working hours, for example, or may want another benefit, that employee ought to be able to have some opportunity to see those needs met in the employment situation rather than have fewer options and only those, maybe, that the Government mandates.

So I am hoping that the Senate will reserve judgment until Senators have had an opportunity to look at some of the alternatives. The Senator from Kansas has a cafeteria exemption that would permit employers to be exempt from the mandates of this bill if they provide benefits that are as attractive or as helpful to employees as the one mandated in this bill.

There is a tax credit amendment of Senator CRAIG that will be offered. It seems to me that would be more appropriate. Let us encourage employers through the Tax Code to respond to these needs in the workplace rather than mandate a benefit.

I had a call in my office this morning—here is a practical example of what is going to happen in some situations—from an employer who has a machine tool company in Mississippi, employs 45 people. Under the terms of this act he would be exempt from the mandate in the law. But he is hoping that his company gets bigger, and he can grow. He is hoping that in a few years he will add up to 20 or 30 additional employees and have maybe 75 employees. But he will be discouraged, he said in his phone call, if this bill passes. If he is going to reach that plateau where the Government makes the decisions rather than he and his employees deciding what is best in the workplace, he may not be as likely to try to get his company up to that size.

That is what is going to happen as a practical matter in some situations. That is one example of it. It is not that people are trying to get around the law so much as they do not want government interfering to the extent that this bill would have government interfere in the decisions that ought to be left to individual employers and individual employees.

I have, I think, a very liberal policy on this subject in my own office. I think other Senators do, too. I think

most employers around the country realize that in order to attract the best employees you have to respond to individual needs that are described in this legislation. You need to encourage employees in the notion that the business that you run is sensitive to their individual problems. And if you do not do it you are going to lose the better people that you have. You are not going to be able to attract others.

We have a very competitive work force right now. Employers realize that. That is why you are seeing more and more businesses having health benefits, having extra vacation time, having other benefits that you would consider fringe benefits to attract employees and keep them.

This moves in just the opposite direction. This is a disincentive for imaginative, sensitive responses by employers in the workplace to the needs of their employees. They are going to say if they are going to require mandated family and medical leave, we cannot offer some of the other things we had hoped we were going to offer because we have to provide this and there is a cost associated with it and there has to be a trade-off.

I just hope the Senator from Kansas will win on the amendment that she offered; Senator CRAIG could prevail with the amendment he offers. I intend to support both of those amendments, and there may be others that are also attractive. I urge the Senate to consider carefully those alternatives to the bill reported by the committee.

The PRESIDING OFFICER (Mr. FORD). The Senator from Wyoming, the Republican whip.

Mr. SIMPSON. Mr. President, I want to join with my colleague from Kansas and my colleague from Mississippi, and to reiterate my opposition to this measure in its present form. It, once again, has captured the attention of the Senate. It has certainly had a remarkable life here. I think the sponsor, Senator DODD of Connecticut, had an apt description of it, which I shall leave unsaid.

I am surprised sometimes at the discussion of the urgency of this matter. I have seen this bill languish for months, one time for a 9-month period, an entire termination period, and nothing was done with it. Then someone said to me, "What is going to happen now, if you are not going to delay this?" I said we have never been in a delay pattern; there is no intent to delay this. It will be dealt with, there is no question about that. If I can look back on times, I know the Senator from Connecticut and the Senator from Kansas can look back on how this lay dormant for months at a time in some cubbyhole in this remarkable dual legislative system.

So I just want to relate that as a husband and also as a father of three very, of course, marvelous children, I am intimately familiar with the pressures and responsibilities of new parents. Parenthood is a joyous and rewarding experience but also very demanding and a difficult enterprise. I understand completely the anxiety and concern on the choices and dilemmas that result and also realize that I have been very fortunate. Many in this body have been similarly fortunate.

I certainly know something about the difficulties that arise when there is an ailing parent or a serious illness in the family. My father is living. He is 95, a Member of this body at one time. He served in the U.S. Senate and served as Governor of Wyoming. In his 95th year, his quality of life is severely diminished. My mother is 92. My wife's mother is 92. Caring for them is a labor of love, but also a difficult task, at whatever level society may be. Conflicts of love and guilt are rampant. But at one time or another, almost every family has experienced or will experience these things. They are universal, and because they are so much a part of life, it is understandable that there is so much interest in the subject before us today.

Mr. President, I think that no one in this Chamber would disagree that family and medical leave policies are surely a very effective and sensible way to reduce the pressures on so many working Americans who have young children and/or aging parents. Moreover, such policies can make good business sense. As both supporters and detractors of this legislation are very swift to point out, many employers already choose to offer this benefit to their employees. Parental leave policies can be beneficial to both parties, and I think this is the absolute key, and that is when the employers and the employees sit down to properly negotiate terms that are appropriate to their own particular business circumstances.

We all applaud the efforts of American business to adopt flexible and responsive management policies. These businesses receive awards in the corporate community. I believe we should continue to make it as easy as possible for employers to offer family friendly policies in the workplace. In fact, because family leave is such an important and valuable benefit to those who may need it, we should take steps always to encourage employers to provide this benefit. However, we should stop short, and the Senator from Kansas has expressed very crisply and effectively in these hours of debate, we must stop short of a congressionally mandated, imposed, inflexible procedure that may harm the very people it was intended to help. While I support this concept of parental leave, I strongly object to any proposal that would mandate the personnel policies of private employers. Yet, that is exactly what this bill does. It would dictate to employers what benefits they must provide, to whom they must be provided and under what circumstances they must be provided, and the word "must" is clear, regardless of whether or not all or even most employees may desire the benefits.

I do understand the great temptation to mandate employee benefits. In this new era of tight budgetary constraints, it is especially painful for the tax-and-spend crowd who are now limited in their ability to create new programs. So what we have been seeing is an effort to take money out of the pockets of employers in order to provide a socially desirable and politically popular new program. By disguising the true costs of social benefits in this way, Congress can pretend to be doing something for the American people without directly raising their taxes. I heard right on this floor some years ago in response to a question, how will this be paid for, what will the taxpayers do, and the response was by one of our colleagues, "Don't worry, this is not going to fall on the backs of the taxpayers, it's going to fall on the backs of employers." Now that surely is the dizziest statement that could ever have been offered, that it is not going to be borne by the taxpayers, it will be borne by employers. Who are employers? They are the most significant taxpayers in this country. I think that is an extraordinary statement. I remember it very well. It never shall escape me.

Many legislators believe that by forcing business to simply foot the bill, they have found the ultimate free lunch. In truth, Americans gain no free lunch when businesses are forced to absorb the cost of Government programs. The cruel trick of mandated benefits, of course, is that their costs are ultimately borne by the very workers they intended to help. Higher labor costs not only undermine our Nation's international competitiveness and destroy American jobs, but they also result in higher prices for consumers at home. In addition, the Federal Treasury takes in reduced tax revenues from a slower growing economy. Finally, the employers may seek out ways to minimize their liability under the new mandate and in this instance, employers may decide pretty quickly that it is not in their best interest to hire young women of childbearing age. Then where are we? Clearly, there are no winners in that situation.

Let us also be very clear about what the family and medical leave bill does not do. It does not in any way guarantee that employees will receive a larger overall package of benefits. In fact, many employees who have no need or desire for family and medical leave may find themselves worse off if an employer has to eliminate existing voluntary benefits in order to make up for the increased costs of the mandated benefits. In some instances, antici-

pated wage increases may even be offset or delayed. These are not outcomes that most people would associate with good public policy. So I think we should be honest in presenting the American people with a complete picture of what this bill would accomplish.

If we really want to ensure that family leave benefits are available to workers who need and want them, then we should provide incentives for employers and employees to design family leave programs that meet the specific needs of each. One way to do this is through refundable tax credits. Several of my Republican colleagues and I have joined Senator CRAIG and the Republican leader in the introduction of legislation that provides tax credits to employers who provide these kinds of benefits. This approach not only offsets the costs that are associated with the benefit but it also provides employers with greater flexibility to meet their workers' needs. It is very clear to me that the tax credit approach is far superior to a federally mandated solution to this problem, and I urge my colleagues to join in supporting that alternative.

I want to commend my colleague, my fellow classmate of the Senate class of 1978, Senator NANCY KASSEBAUM, for her extraordinary diligence in handling this measure in such a steady, thoughtful, earnest, and principled way. It is a tough one. She takes on those issues and does them with great success. I commend her for her work in a very difficult situation which if properly heard by the American public they should certainly subscribe to the results she suggests.

I thank the Chair.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

AMENDMENT NO. 4

(Purpose: To amend the Internal Revenue Code of 1986 to provide tax incentives for the adoption of flexible family leave policies by employers)

Mr. CRAIG. Mr. President, I send to the desk an amendment in the form of a substitute.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] for himself, Mr. DOLE, Mr. HATCH, Mr. SIMPSON, Mr. GRASSLEY, Mr. BURNS, Mr. KEMPTHORNE, Mr. DOMENICI, Mr. COCHRAN, Mr. THURMOND, Mr. STEVENS, Mr. WARNER, Mr. SMITH, Mr. PRESSLER, and Mr. BENNETT, proposes an amendment numbered 4.

Mr. CRAIG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. FAMILY LEAVE CREDIT.

(a) CREDIT CREATED.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45A. FAMILY LEAVE CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the family leave credit for any employer for any taxable year is 20 percent of the qualified compensation with respect to an employee who is on family leave.

"(2) LIMITATIONS ON AVAILABILITY AND AMOUNT OF CREDIT.—

"(A) FEWER THAN 500 EMPLOYEES.—An employer is not entitled to a family leave credit for any taxable year unless—

"(i) in the case of an employer that is in its first taxable year, the employer had fewer than 500 employees at the close of that year, and

"(ii) in the case of other employers, the employer averaged fewer than 500 employees for its preceding taxable year.

An employer is considered to average fewer than 500 employees for a taxable year if the sum of its employees on the last day of each quarter in that year divided by the number of quarters is fewer than 500.

"(B) DOLLAR CAP ON QUALIFIED COMPENSATION.—The amount of qualified compensation that may be taken into account with respect to an employee may not exceed $100 per business day.

"(C) MAXIMUM PERIOD OF FAMILY LEAVE.—No family leave credit will be available to the extent that the period of family leave for an employee exceeds 12 weeks, defined as 60 business days, in any 12-month period.

"(D) ADDITIONAL LIMITATION ON LEAVE FOR PERSONAL SERIOUS HEALTH CONDITIONS.—Leave from an employer in connection with a qualified purpose described in subsection (b)(2)(D) will qualify as family leave only if the employee on leave has no unused sick, disability or similar leave.

"(b) FAMILY LEAVE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, an employee is considered to be on 'family leave' if the employee is on leave from the employer in connection with any qualified purpose.

"(2) QUALIFIED PURPOSES.—The term 'qualified purposes' means—

"(A) the birth of a child,

"(B) the placement of a child with the employee for adoption or foster care,

"(C) the care of a child, parent or spouse with a serious health condition, or

"(D) the treatment of a serious health condition which makes the employee unable to perform the functions of his or her position.

"(3) DEFINITIONS OF CHILD, PARENT AND SERIOUS HEALTH CONDITION.—

"(A) CHILD.—The term 'child' means an individual who is a son, stepson, daughter, stepdaughter, eligible foster child as described in sections 32(c)(3)(B)(iii) (I) and (II), or legal ward of the employee or employee's spouse, or a child of a person standing in loco parentis and who either has not reached the age of 19 by the commencement of the period of family leave or is physically or mentally incapable of caring for himself or herself.

"(B) PARENT.—The term 'parent' means an individual with respect to whom the employee would be considered a 'child' within the meaning of subparagraph (A) without regard to the age limitation.

"(C) SERIOUS HEALTH CONDITION.—The term 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves the inpatient care in a hospital, hospice or residential health care facility, or substantial and continuing treatment by a health care provider.

"(c) CREDIT REFUNDABLE.—In the case of so much of the section 38 credit as is attributable to the family leave credit—

"(1) section 38(c) will not apply, and

"(2) for purposes of this section, such credit will be treated as if it were allowed under subpart C of this part.

"(d) NONDISCRIMINATION REQUIREMENT.—The family leave credit is available to an employer for a taxable year only if the employer provides family leave to its employees for that year on a nondiscriminatory basis.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) IN GENERAL.—For purposes of this section—

"(A) EMPLOYER.—Except as otherwise provided in this subpart, the term 'employer' has the meaning provided by section 3306(a)(1) and (3).

"(B) EMPLOYEE.—The term 'employee' includes only permanent employees who have been employed by the employer for at least 12 months and have provided over 1000 hours of service to the employer during the 12 months preceding commencement of the family leave.

"(C) QUALIFIED COMPENSATION.—The term 'qualified compensation' means the greater of—

"(i) cash wages paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave, and

"(ii) cash wages that would have been paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave had the employee not taken the leave.

"(D) COMPUTATION.—For purposes of subparagraph (C)(ii), the amount of cash wages that would have been paid to the employee for any business day the employee is on family leave is the average daily cash wages of that employee for the four calendar quarters preceding the commencement of the family leave.

"(E) AVERAGE DAILY CASH WAGES.—For purposes of the computation described in subparagraph (D), an employee's average daily cash wages is his or her total cash wages for the period described in such subsection divided by the number of business days in that period.

"(F) BUSINESS DAY.—The term 'business day' includes any day other than a Saturday, Sunday or legal holiday.

"(2) EMPLOYMENT AND BENEFITS PROTECTION.—

"(A) IN GENERAL.—Leave taken under this section shall qualify an employer for a family leave credit only if—

"(i) upon return from such leave, the employee is entitled to be restored by the employer to the position of employment held by the employee when the leave commenced, or to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment;

"(ii) the taking of such leave does not result in the loss of any employment benefit accrued prior to the date on which the leave commenced; and

"(iii) the employer maintains coverage under any 'group health plan' (as defined in section 5000(b)(1)) for the duration of such leave, at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously during the leave period.

"(B) LIMITATION.—Nothing in this paragraph shall be construed to require an em-

ployer, as a condition of qualifying for a family leave credit, to entitle any employee taking leave to—

"(i) the accrual of any seniority or employment benefits during any period of leave; or

"(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

"(3) EXPECTATION THAT EMPLOYEE WILL RETURN TO WORK.—No family leave credit will be available for any portion of a period of family leave during which the employer does not reasonably believe that the employee will return from leave to work for the employer.

"(4) SPECIAL RULES.—Rules similar to the rules of section 52 shall apply for purposes of this section.

"(5) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including guidance relating to ensuring adequate employment and benefits protection and guidance to prevent abuse of this section.".

(b) CORPORATE ESTIMATED TAX PROVISIONS.—

(1) INCREASE IN ESTIMATED TAX.—

(A) IN GENERAL.—Subsection (d) of section 6655 of such Code (relating to amount of required installments) is amended—

(i) by striking "91 percent" each place it appears in paragraph (1)(B)(i) and inserting "97 percent",

(ii) by striking "91 PERCENT" in the heading of paragraph (2) and inserting "97 PERCENT", and

(iii) by striking paragraph (3).

(B) CONFORMING AMENDMENTS.—

(i) Clause (ii) of section 6655(e)(2)(B) of such Code is amended by striking the table contained therein and inserting the following new table:

"In the case of the following required installments:	The applicable percentage is:
1st	24.25
2nd	48.5
3rd	72.75
4th	97."

(ii) Clause (i) of section 6655(e)(3)(A) of such Code is amended by striking "91 percent" and inserting "97 percent".

(2) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(A) Clause (i) of section 6655(e)(2)(A) of such Code is amended—

(i) by striking "or for the first 5 months" in subclause (II),

(ii) by striking "or for the first 8 months" in subclause (III), and

(iii) by striking "or for the first 11 months" in subclause (IV).

(B) Paragraph (2) of section 6655(e) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the second required installment for such taxable year."

(C) The last sentence of section 6655(g)(3) of such Code is amended by striking "and subsection (e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall apply to taxable years beginning after December 31, 1996.

(B) The amendments made by paragraph (2) shall apply to taxable years beginning after December 31, 1992.

(c) COORDINATION WITH REFUND PROVISION.—For purposes of section 1324(b)(2) of title 31 of the United States Code, section 45A of the Internal Revenue Code of 1986 (as added by this Act) will be considered to be a credit provision of the Internal Revenue Code of 1954 enacted before January 1, 1978.

(d) CONFORMING AMENDMENTS.—

(1) Section 38 of such Code is amended by deleting the "plus" after subsection (b)(7) and "." after subsection (b)(8), by inserting ", plus" after subsection (b)(8), and by adding a new subsection (b)(9) to read as follows:

"(9) the family leave credit under section 45A."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45A. Family leave credit."

(e) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this section shall apply to family leave that commences 90 days after the date of the enactment of this Act.

Mr. CRAIG. Mr. President, I offer today a substitute to S. 5 in the form of the amendment that has just been presented to the desk that, in large part, was expressed by my colleague from Wyoming a few moments ago as a refundable tax credit to the issue of family and medical leave.

Mr. President, last weekend I took all of the information home that has been accumulated on this issue over the last good many years, from those who support the mandated approach and those of us who support the incentive marketplace approach, and began to read as much as I could to better understand this issue so that I could respond on the floor to questions and more clearly debate and explain for our colleagues in the Senate the differences on this very important issue.

While I was reading the pros and cons, it became very clear to me that there are few who oppose the concept of family and medical leave. I would have to say that a vast majority, if not all of the Senate, supports the concept. Whether it be the mandated leave or the incentive tax credit leave, we all say it is very important in the workplace of today that our employees have the opportunity for this kind of flexibility.

Why? Because the workplace of today has changed significantly from the workplace of a decade or two ago. We all know that both spouses are employed in large numbers today. And while all of us are increasingly concerned about the well-being of the family and the family unit, we recognize that fundamental changes have to be made in our society if that unit is to strengthen. And one of those, as has been so well argued today by my colleague from Kansas, is the issue of a flexible policy in the workplace for both parental and family medical leave.

So I hope today in this debate it is not that those who are in favor of leave are for the mandate and those who are in favor of a tax credit to promote it are somehow opposed to leave. That simply is not the case. I think the record has clearly demonstrated over the years that all of us recognize the importance of this issue, and it grows increasingly more important as our society changes and the dynamics of the workplace change.

While I was studying those issues this weekend, I was also caught up by what is going on in the workplace today. Still lingering in the newspapers was the shock to our economy of the weakening condition of something that through my childhood was a rock foundation of the free enterprise system, the Sears & Roebuck Co., that 50,000 employees in their catalog division would over a period of months be without a job.

Why was that happening? I found it almost ironic that at a time when we are talking about enhancing or increasing benefits to the workplace and to the employees of this country, the employees of this country are under increasing threat or concern about the stability of their jobs, the strength of their jobs, or the strength of the company which generates the jobs in the workplace. I thought it was interesting that in the mandate concept which is being proposed today we are asking employers to take on even greater burdens at a time when they are not even sure they can provide their employees with a job or the benefits of today.

How does all of this fit? Last week, before the Joint Economic Committee over in the House we had Alan Greenspan, and there was a lot of pounding going on, Mr. President, finger pointing:

> Mr. Greenspan, why didn't you do this with M2? Why didn't you do this with the general monetary policy of this country? Look at the work conditions. Why are we having a sluggish economy? Why are there not more jobs being created?

Generally, he and other economists agree we are at a very unique time in our economy. It does not fit the norms and standards of other recessions, for

we all now recognize that we have had economic growth for at least 6 months and yet we see major layoffs and major job reductions in the marketplace at a time when our economy is in fact growing. That is a relationship that has not existed for a long time out there.

Why is it happening today? Who knows really? Some do. But we are just beginning to figure out the fact that probably as the computer and the capability of the computer in the workplace enhances the efficiency and the productivity of the workplace rapid downsizing is occurring. "Getting lean" is the term out there, getting more competitive, becoming more profitable, more efficient. That is what happens in the marketplace, and as that happens, the workplace changes and the conditions of the workplace change.

Now, there is another type, or consistency of rhetoric we have heard on the floor in the last year. Whatever we do, we have to become more competitive. Surely, our manufacturers to compete in world markets have to be more competitive. How do you explain that? Very simply, you have to produce the widget in a way that it will compete with the same widget or a similar widget produced in Germany or Japan. Plain and simple. That is the bottom line to a marketplace. That is what our companies and our workplace are trying to do today by downsizing and by efforts to become more efficient.

How does this debate fit into the context of mandated family and medical leave? I think it fits very well. I think you must look at the broad picture if you are to look at the small picture, if you are to look at jobs in our society today and the viability of those jobs at a time when our economy is amazingly fragile in a strange and new and often times different way.

I think some of us do recognize that. And that is why today I have brought to the floor an alternative, an amendment that says every bit as clearly as S. 5 that we care about the men and women of this country, who are the life blood of our country, the working people. We care about the conditions under which they work, and we want to provide the incentives to assure that those conditions stay in tune with changes in the marketplace.

That is why S. 10, or the Dole-Craig substitute in the form of an amendment, has been offered. What I would like to do for the next few minutes, Mr. President, is walk through this issue, talk about it in a way that I think better understands or explains the magnitude of the differences and why it is important that we at least have a vote on the alternative at a time in our country when we want to address the issue of this kind of flexibility in the workplace.

Mandated leave is what we have heard about for the last several hours, mandated leave that ignores the diversity of approximately 300,000 firms which, it is agreed, will be covered. It says here it is. You cannot take it or leave it; you have to take it. It is a mandate. Make it fit into the structure of your employment. Ignore the variety of geographic, economic, and labor market situations that all employers face. ignore those and fit yourself into a jacket, a mandated Federal jacket. Assume that every employer who does not offer a specific benefit, here family and medical leave, is not caring, is much more interested in their bottom line, and does not give a whit about their workers. That is what a mandated leave argues.

And so the Federal Government through the Congress of the United States is saying you are going to do it, like it or not. If you do not do it, you will be in violation of the Federal law.

This, in essence, is the first time that this Congress has stepped outside of standards into benefits. We for a long time have legislated into public law work standards, workplace conditions, health and environment. But we have never stepped across into the threshold of direct benefits. That has always been allowed to be a negotiable item between employee and employer. I must say that this is the first time we have chosen to do so in the magnitude in which this is being done.

I believe that is why the concept of incentives is such a direct contrast to what is being offered by the Senator from Connecticut. There is a basis for more than a half century of steady growth, of almost an infinite variety of employee benefits, and not one of them mandated.

They appeal to and reward people for their work ethic and their work effort. They foster negotiation and flexibility and of course, they come largely after a socioeconomic change. They never leave. They follow. That is exactly what is going on out there in the marketplace today.

Earlier, Mr. President, I spoke about the entry of women into the marketplace. By phenomenal numbers over the last two decades and as a result of that, the concept of family leave becomes increasingly more important and more and more today we see companies bringing on line in a negotiated-benefit way family leave. Why? As I said, it lags the socioeconomic shifts that we have. But it also adjusts to the geography, the demographics, and the workplace conditions as best it can, and oftentimes it fits the way it ought to fit.

One of the arguments you will hear is, well, whatever we do we have to have it because all other countries or many other countries in the world have it. That is true. Austria, Canada, France, Finland, West Germany, Japan, and Sweden have it. They all have very liberal-pay family leaves. And all of these leaves are financed by their governments. Let me repeat it. All of these leaves are financed by their governments. They do not say to the employer: You do it. And you pull it out of your pocket. And you pull it out of your profit line. And you pull it out of your margin of competitiveness. And you do it by Federal mandate. If you continue to violate Federal law, we will drag you into court, and we will sue you. The Government recognized in those countries at least that it is a valid policy, a responsible human policy, and because it was they paid for it.

It just so happens that in Sweden 62 percent of a married couple's income is paid in taxes. It also happens that in Italy, where labor costs are 37 percent higher than America, in Germany 10 percent higher, and in France, 8 percent higher, in Japan where family leave is an employee benefit, women are given the lowest pay, least significant jobs, and are oftentimes barred from the workplace.

Those are consequences of that act and others. But I think it is important for all of us to recognize that.

Let us do a comparative. I have a chart here, Mr. President, that shows a comparative between S. 5, that bill introduced by the committee, and by our chairman, and the flexible leave substitute amendment that Senator DOLE and I and others have offered, now with some 16 cosponsors.

I think it is significant to say that if we are going to have this kind of policy in our country, why do we not do it for everybody? Why do we not do it for as many people as we possibly can? Is it not as good for the woman or the man working in a company of 52 people as it is for the woman or man working in a company of 49 people? Why do I choose those numbers? Well, it is very easy. S. 5 says that it does not affect employers who employ 50 employees or less.

I think it is grossly unfair. The reason they did not do it is because they could not face the political consequences from a myriad of small businesses who would march on Washington. That is probably one of the reasons. We are saying in our bill, in our incentive bill, those with employees of 500 or fewer; in other words, we cover about 99 percent of the workplace, and they cover between 40 and 50 percent of the workplace. That is a phenomenal difference.

I am not going to debate who cares more. That is not the point. We all care about this issue. We all care about workplace conditions. We all care about the mother who is a single mother whose child is ill, and needs to leave work to care for the child. That is just not the issue here. The issue is how do you create that kind of opportunity in the marketplace, in the job market, in the workplace? Do you say through the Federal Government, do it, or pay the consequences, or do you say if you do

it, we will reward you with an incentive?

I have talked about the mandates. We would suggest that a 20-percent refundable tax credit be afforded. What does that represent? Employees monthly salary, 2,020 percent, $400 a month, of tax credit back. That is a phenomenal incentive for an employer to want to do it. We will argue later about the costs involved. There are substantial costs on either side although I will have to say the mandated one does not talk costs right now because they have shoved those costs off on the private sector. So it really does not count in the debate. It is only the philosophy, principle, caring that counts, the heck with the cost, somebody else will pay for it.

You bet your life somebody else will pay for it. We will all pay for it. We are talking about unpaid leave in both bills. So we are the same there. We are talking about birth, adoption, serious ill health conditions of child, parent, or employee. So we both agree there. We want to care for the same people. Health coverage continued during the time of leave, we both agree there. Job and benefits protected and reinstated, we both agree there.

So we are in concert over the way we treat people. We just happen to disagree on how you get there. That is what is so darned important in the totality of this debate.

Supporters repeatedly cite polls showing family and medical leave is popular. Well, yes, it is popular. If you ask the question: Would you like to have it, I think everybody says yes, we would like to have it. Would you like it over paid vacation? Would you like it over some other benefit? In other words, we might not be able to provide you with all of those benefits but look at a package and then how does it fit? Well, when those kind of questions get asked, in the 1989 Washington Post poll, 3 percent rated parental leave as the most important of four issues listed as benefits in the workplace. It takes on a little different context, does not it now, when you begin to put it out in the real world, out of the abstract, the abstract of a congressional hearing room. But you put it to work in the marketplace, affecting lives and the conditions of those lives, and all of a sudden, the world begins to change a little bit.

In a Gallup Poll, 1 percent listed parental leave as their most valuable employee benefit, 2 percent did not know which of their benefits was the most valuable. Then there was a poll in a 1991 survey saying 89 percent would leave it up to an employer-employee negotiation. Why? Because they know it could be designed to their particular workplace.

In other words, the employee had a right to become involved in deciding the conditions and the environment. That is what 89 percent of the American people polled said they wanted; 6 percent preferred to have it as a Federal mandate.

That is the condition. That is the situation we are working under. I think it is a reasonable representation of the pros and cons of this issue as it relates to whether you would like to do it through mandate or whether you would like to do it through incentive.

So now let us talk about the small employers, the costs involved. Because I really do believe we are talking about a substantial burden on small employers. Small employers are largely labor-intensive employers. They have greater difficulty shifting or replacing employees. They require flexibility to be competitive, and they operate on very, very tight margins and very, very tight budgets.

What have we heard? How many small businesses go under each year? The ratio is very, very high. They have to have phenomenal flexibility to stay alive.

Mr. DODD. Mr. President, will my colleague yield for a unanimous-consent request?

Mr. CRAIG. Yes.

ORDER OF PROCEDURE

Mr. DODD. Mr. President, I ask unanimous consent that there be 2 hours of debate, equally divided in the usual form, on Senator CRAIG's amendment; that no amendments be in order to either the amendment or any language that may be stricken by the amendment; that at the conclusion or yielding back of time, the amendment be laid aside; that the vote on or in relation to the amendment occur on tomorrow, Wednesday, February 3, at 10 a.m.

I would as further, Mr. President, that the time now being expended on the amendment be counted toward that 2 hours.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Idaho.

Mr. CRAIG. Thank you, Mr. President. Could you tell me how much time I have consumed to this point?

The PRESIDING OFFICER. Nineteen minutes.

Mr. CRAIG. Thank you, Mr. President.

Mr. President, I was discussing the burden on small business that relates to the impact of a Federal mandate, and the phenomenal competitive environment in which small business today exists.

Yet, through the decade of the eighties and now well into the nineties, the small business community of this country is the great productive factory of new jobs. That is where the new jobs are created, and small companies become large companies, and new widgets are invented, new concepts are brought about. But in all of that, the environment in which they exist is an environment of tight budgets and narrow margins and the need for phenomenal flexibility.

Yet, today, we are saying you can be as flexible as you want as long as you adhere to the Federal mandate. All that a small business needs is to risk this, or blink an eye, and fail in some manner, and to be dragged into court by a Federal agency and taken through the legal process because somebody interpreted the fact that they did not adhere to a Federal mandate and that small business is out of business, and those 50 or more employees are without a job.

Those are small potatoes compared to the 50,000 people that will be terminated by Sears. But there are millions of them out there, and they soon become very large and the primary creator of jobs in our society.

Overtime workers. That is an interesting concept. Overtime workers absorbing absentee employee work loads. If you mandate the leave in the big businesses in this country, we will have a cadre of people on board ready to take the place of the person who is on leave. In many instances, that is probably true.

But that small business, in a small town, when that very valuable employee leaves, can they find the replacement? No, they do not do that. The reason they do not do that is because she or he does not exist. So they will extend on the time of the current workers into temporary or into absorbing them through extension of time. They will hire temporary workers, and they will do all kinds of things that oftentimes cost twice as much as the permanent employee.

What I am trying to suggest to you is that in a variety of the costs that are argued, and that have been argued here today, few have really considered the whole cost of the picture as it relates to the impact of a mandate on the workplace.

Let us talk about the game of size. S. 5 says 50 or more. The substitute says 500 or less. It is very important that we talk about the game of size, because it has very real impacts in the marketplace. You are a small business and you have survived for 3 years; you are up to 49 employees; you are showing some profitability; and you know that if you cross the threshold into 50, you are going to have to institute a new policy. More important, if you already have a leave policy, you are now going to be subject to the critical and scrutinizing eye of the Federal Government.

What do you do? Cross that threshold? Put on two new secretaries to monitor or jump your cost by 3, 4, or 5 percent? Well, that is a real tough business decision to be made, and you are going to have to make it, because the law requires you to make it. What you will probably do for a while until you

are much more profitable is hire temps. You will not go to the 50 employees. You will do a lot of overtime work.

What happened in the economy out there this year because people were unsure that this economic growth was going to take off—we kept hearing it day after day through June, July, and August of the summer. We heard that nobody was hiring. Nobody was adding on. They were just pushing their employees to work overtime.

You see, the marketplace really is that resilient. It will really respond that way. You cannot craft a Federal law to cause it to do otherwise. Because it hurts the profitability of a company that may be very marginal. They will do what they have to to stay alive, until they are in a situation where they can well afford to cross the threshold.

What will that do to our economy? I do not think really any of us know for sure. But we do know that it is a very slippery slope, and we do know that companies and employers in the marketplace respond that way. That is why the small business groups of this country, NFIB, were concerned enough—even though it may not affect a lot of their membership—to write a letter asking them to call their Senators to oppose this. The reason is, how long will this 50 mandate or above stay in place?

We well know that the chairman of the Education and Labor Committee of the other body has frequently said in a very pointed way that the mandate should apply to all employers, that 50 was not good enough. I agree. That is why our bill covers all employers. In fact, there have been a lot of bills introduced over the course of the last number of years as we have debated this issue that talked about thresholds of 35, 20, and even 5 employees.

What is written now can be changed, and more than likely will be, as the Federal mandate increases over the next several years. What you do for political expedience today, you will change next year or the year after, once you have broken through this issue. That is a fear that I have. It is a fear a lot of small businesses have. I believe if you set up that kind of environment rapidly you will find the difficulty that results from it.

What is the difficulty? Our business is less able to compete in a world marketplace, less able to design that unique and caring package of benefits that does reflect the concern for the worker, that really does show the relationship of geography and environment and economy, and the type of worker hired, and all of those things that a good employer working with his or her employees can craft a benefit package that we have seen so productive in a voluntary capacity for a good number of years.

What about the hospital? The hospital in the small community that has the cost in 1989 dollars of training an RN to manage an operating room at the cost of $28,000; or a critical care unit RN, and the cost is $18,000 to train them. They take leave, and that hospital out in rural Idaho picks up the phone and says, "send me another nurse."

No, they do not exist, Mr. President. They are not there. They may have to drive 100 to 150 miles to fill that. Those are very, very difficult mandates to adhere to and, yet, that is exactly the kind of thing we are beginning to set in motion with S. 5. In other words, one suit cannot fit all who want to wear it. No Federal mandate ever has, and in all instances, Federal mandates have historically created great dislocations in the marketplace and have dramatically shifted the way business is done.

What I am suggesting in our amendment alternative is designer flexibility—create the incentive, push employers in that direction, reward them for doing so; but allow the genius and the intelligence of the worker and the employer to sit down together to craft a package that they think fits their needs.

(Mr. EXON assumed the chair.)

Mr. CRAIG. Determining the cost. Let us talk about costs. A lot of figures have been thrown around. If you want to believe S. 5, this is a cheapo. All kinds of figures are out there. How about $5.50 for every employee in the workplace? I think they suggested that; or $612 to $674 million a year nationwide. And they are citing GAO and SBA contract-out studies when those kinds of estimates are talked about.

I would like to look at those studies for a little bit because I think they are dramatically flawed.

For example, are you going to take 1986 filings and say they are valid today? I suspect not.

But let us look at S. 5 mandates and the kind of impact they would have. The average cost base, the analysis that was done by the GAO, I think is largely flawed. They look at a very limited set. For example, the GAO study is now 6 years old. Today's GAO costs are triple its 1987 estimate. They did not use scientifically valid size bases.

I am telling you that a workplace condition in Detroit, MI, and a workplace condition in Charleston, SC, is not the workplace condition in Boise, ID. And yet we are saying it is, it always will be, and the Federal mandate is going to be fixed to fit it and the costs are going to average out the same.

They identify as the only meaningful cost in this mandate's application, the continuation of health insurance. In the SBA contracted-out report, I think the press misreported and misrepresented some of the mandate's supporters only determined a cost of 6 weeks of maternity leave. S. 5 talks about 12 weeks. A lot of things happen between 6 and 12 weeks as it relates to the kind of employee you are going to find to replace the employee that is on leave. A lot of different kinds of adjustments have to be made between a 6-week leave and the potential of a 12-week leave. And those kinds of applications are very, very important in the examination of this.

If you move from the 6-week mandated maternity leave that was looked at one time and is now different in S. 5 in its 12 weeks, actual cost could go from $1.2 to $7.9 billion. This is a lot of money. That is an awful lot of difference between the kind of money that was argued some years ago and the kind of money we are talking about today.

Again, let us not talk about money. Let us talk about workplace environment and let us talk about being concerned that people be dealt with in a fair and equitable way.

I would suggest to you that the only cost is not just health care insurance continuation. There are a lot of other costs. Statistics show that to replace a qualified and trained worker takes at least that worker's salary for 1 year and about 13 months to train them. And that during that time they are progressively more productive, but substantially less productive than a well-trained experienced worker.

Productivity, efficiency, and cost of doing business in the marketplace directly relates to competitiveness in a world market, Mr. President. I have not heard that today, I have not heard anyone want to talk about that on the other side. They sure do want to talk about job creation and they sure do want to talk about competitiveness, but they sure do not want to talk about it in relation to this legislation. And we darn well better because every time we add on a new burden we shift the cost or expand the cost. And I would suggest there are substantially greater costs hidden in this bill that has been talked about today.

Just that one shift of 6 months makes literally billions of dollars worth of cost difference. So let us talk about realistic estimates.

I combined the best of GAO and the best of the SBA contracted out, began with a random sample of 10,000 firms. A survey produced by 1,730 responses included the cost of insurance continuation—included other types of leave such as spousal, serious illness to family, members own serious health conditions—estimated that maternity leave would amount to only about 40 percent of the actual cost of the total leave package.

When you combine all of those together and if you take the $612 million in the SBA-estimated costs for 6 weeks of maternity leave, and as I have said you multiply it by two, and then you do some reasonable and responsible

math that we have looked at over and over again, and you multiply by 2½ times because you account for all those other changes out there that occur in the workplace, guess what figure you come up with? About $3 billion in actual costs a year. Three billion dollars where will that money come from?

Well, according to those who are sponsors of S. 5, it sure is not going to come out of the Federal budget. We are going to make sure somebody pays for it. We are going to be good guys and we are going to look like kind and caring and concerned people, but we are going to walk away from the responsibility of paying.

I do not want to walk away from that responsibility, Mr. President, because I think we all agree we care that this is an important issue. And if we care that much, we ought to care enough to provide a financing mechanism for it, so that that kind of benefit and reward go forward. Three billion dollars a year in the marketplace, if it has to be sucked off the bottom lines of the businesses that create the jobs, is representative of 150,000 jobs.

Now we have just heard—with Sears and other companies just in the last 2 weeks—100,000 jobs lost, gone, not to be again with those companies. And yet we are talking about a bill that could potentially have the impact of reducing employment in the country by offsetting the costs by approximately 150,000 jobs.

I think that is darned important, Mr. President, and yet nobody has chosen to talk about it who is a strong supporter of S. 5. And it is so fundamentally important at this very fragile time in our Nation's economy and in the stability of our workplace environment.

So I have used the data of the supporters of S. 5. We have looked at it in a simple way. And I will tell you that it is four to five times higher than the price advertised. And I think that is a substantial misrepresentation of some awfully darned important facts.

Why a tax credit incentive, Mr. President? There are a lot of reasons for incentives, most importantly because they work.

Somebody said, well, you just will not get what you want out there in the marketplace. We want to make sure people are covered.

I think right now we want to make sure that politicians look good and show that they really do care. I think that is maybe what is at the base of this issue, a lot more than whether we really do affect the workplace and create an environment in which people are benefiting from a public or a Federal policy.

Incentives do work. When we began to create incentives for private health insurance in the marketplace, look what began to happen: From 1948 until 1988, dramatic increases up to about $175 billion in direct insurance benefits to payment of Medicare, hospital insurance, contributions to group health plans.

Why did that happen? Well, I think in part because the workplace cared. But also because there was an incentive to care. It became a little easier to care, if you will. Employees saw the opportunity to negotiate this as part of a labor package and they began to work at it. And we saw tremendous differences, in the billions of dollars, today's $174.2 billion. The community of workers in this country said, we want that advantage. Public policy said we will reward employers for creating that advantage and it happened.

I think employers realize the tremendous value of human capital and they are recognizing more than ever before the value of investing in it, making sure that that capital feels good, that there is a real caring out there about the productive base of this economy.

Although we are seeing downsizing, we are also seeing rapid growths in general benefit packages as incentives to the workplace. Day care centers on worksite, all of those kinds of things are beginning to reflect that sociological shift that is going on out there that I talked about earlier. Employers operating at the margin who want to provide the benefit are empowered to do so by the incentives, not the mandates.

These are not Federal mandates out there that are creating this health care coverage today. We have more people covered by health care than ever before and we want to make sure the rest of them are covered, hopefully, by new health care programs that we are going to try to institute.

But this was not accidental. It did not happen overnight. It happened because public policy said we care and you ought to do it, and because employers and employees saw the opportunity and they followed suit caring, and they accomplished it. Employers who really did care found an additional reason, a tax reason, to provide the incentives that we are dealing with.

What have I offered? What have 15 of us offered here? Well, Senator DOLE and I, in offering this, saw the opportunity to generate in the marketplace place some very real dynamics of caring; and that is 20 percent of an employee's regular cash wages becomes the tax credit for qualified purposes. That represents about $400 a month. It is a refundable tax credit. We did it, and it is offset perfectly through a cash management change in the estimated corporate income tax. No tax increases; none at all.

Simply put, in the estimated income tax that corporate America pays today, we asked them to pay it a little earlier. And we save the need to borrow and we save the need to pay interest. That is all that is done.

Nobody argued about this last year. They all agreed on it. That is what we have been able to accomplish here. And, in doing so, we create phenomenal dynamics because we realistically say that the cost of covering a qualified family and medical leave approach is going to, in fiscal 1993, cost about $156 million; real dollars. In 1994, about $841 million; and then, in 1995, $871 million; in 1996, $932 million. It will break, by 1999, over $1 billion in actual costs. And yet, the other side can sit by and say we do not have to worry about that. Nobody here is going to have to worry about paying it. We have a deficit to worry about. We want to make sure this happens, but we are not going to pay for it. I am suggesting, let us make it happen, but let us reward those who cause it to happen, and pay for some of it. Create the benefit by creating the incentive.

Mr. President, those are the fundamental differences in the bills.

Let me talk about one other change in S. 5 that is important. Many people are saying, you know, the bill they had up last year and the bill they have up this year are just basically the same.

There is a difference. Under the new bill, an employee who is taking leave for his or her own serious health condition, or that of a family member, has an absolute right to take leave on a reduced leave schedule—an absolute right.

What does that mean? It possibly means if you take the leave, you can say, "But I can work Wednesdays 1 to 5, and Fridays 9 to 12, and maybe—maybe—I can make it in on Mondays."

How can you possibly hire temporary employees to cover, under that kind of absolute approach? Yet, as I read it and as I talk to people in the business sector, they become very alarmed over that provision. They are not quite sure how they can cope with it, or with the bookkeeping and the cost of that kind of bookkeeping.

Remember, those who support S. 5 suggest that it is only the continued health care coverage that is the real cost. I suggest that that kind of manipulation, mandated manipulation, is an increasing cost, as I mentioned earlier, as it deals with this issue.

I have used up a fair portion of my time, Mr. President. Let me summarize.

When we talk about family and medical leave, let me once again assure the chairman how much I appreciate the tremendous energy and effort he has put into this issue. There is no doubt he is concerned in a fair and responsible way. He and I differ on how you get there, but I do not think we differ on our concern for the tremendous change that has gone on in our society and the need to change the work environment so that it is more productive, so that it really does respond to the differences that are going on out there, so that men and women alike can have equal access to that workplace and feel

that they are not inhibited by certain conditions that might arise in their family or in their work situation. That is what we are talking about, and we all know we want to do that.

Companies today that are doing it find increased productivity. It is not a judgment of whether it is a good idea or a bad idea. All efforts in this area point to the fact that it is a very good idea.

The question is, who pays? Should we force it on those who do not believe they can or who have, in fact, negotiated with their employees for other benefits? Should we say: You have to do this, too? I think not. I think we really ought to extend the opportunity and create the incentive, and in so doing I think we will see these kinds of growth factors. The lines will be up on the charts 3 or 4 or 5 years from now as it relates to leave provided in the workplace because we will have generated a positive incentive. We will not have taken it off of the bottom line of profitability. We will not have made our workers and our workplace less competitive than the workplace in Japan, Sweden, Germany, France, Italy, or Austria.

That is the issue. That is why we have offered the substitute as a reasonable alternative in this debate that we hope a majority of the Members of this Senate will consider before they vote on this issue.

I retain the remainder of my time.

The PRESIDING OFFICER (Mr. REID). The Senator has 15 minutes remaining.

The Senator from Connecticut.

Mr. DODD. Mr. President, the distinguished senior Senator from New York, the chairman of the Finance Committee, is appearing as I speak. I am pleased to yield 15 minutes to the chairman of the Finance Committee, Senator MOYNIHAN.

The PRESIDING OFFICER. The Senator from New York is recognized for 15 minutes.

Mr. MOYNIHAN. Mr. President, I thank the distinguished Senator from Connecticut, who is the sponsor of this legislation. Mr. President, I rise first to express a measure of disbelief; and then, second, to explain to the Senate what the Senators know but what, even so, we have to from time to time remind ourselves of concerning our constitutional responsibilities and the constitutional restraints upon us. First, simply to express a measure of disbelief that on the first major piece of legislation to come back to the Senate after having been dealt with in the previous Congress—a measure not simple, but with straightforward purposes—that we should see offered as a substitute a $5 billion tax credit for corporations. To be precise, over the next 6 years spanning fiscal years 1993 to 1998, the Joint Committee on Taxation estimates this measure would cost us $4.8 billion. It would create a new tax expenditure, Mr. President, to use the term that Stanley Surrey introduced. Giving up tax revenues is no different in effect from spending revenues. The net effect on the deficit is the same.

I have to say, I see my very dear friend of 16 years in this body. The Senator from Oregon is on the floor; I know he will want to comment, too. He is a cosponsor of the bill before us, as am I. We are, respectively, chairman and ranking member of the Finance Committee. This amendment is a tax measure. It has never been to the Finance Committee. The idea of finding revenue in this amount for this purpose has never to my knowledge been discussed it any way in the Finance Committee. The committee did not know of it. We learned of it today, or possibly late yesterday.

But apart from these particulars of tax policy and the Finance Committees responsibility for it in the Senate, there is an insuperable constitutional objection. The Constitution draws a most important distinction between the Senate and the House as regards tax legislation. It makes a fundamental distinction between the two bodies in article I, section 7, which states:

> All bills for raising revenue shall originate in the House of Representatives.

This is an amendment in the form of a substitute for S. 5. If by some wholly unlikely event it should pass, it would go to the House. It would lay on the desk. The Parliamentarian in the House would consider it unreceivable by the House and upon a House vote, it would be sent right back through this door. It cannot become law. More importantly, Mr. President, in my view, it ought not to become law.

The distinguished managers will speak to the merits, but it should seem to me clear that as a substitute for a proposal that would provide guaranteed family leave for a great number of American workers, it would provide an optional tax scheme. Some corporations could opt to take advantage of a tax credit for providing this leave if they wished and, if they did not wish, not. And there you leave it.

The new tax credit would provide an incentive to be sure, but corporations have many tax incentives which they do not utilize. The tax credit approach does not provide a national leave standard, and I hope it will not be accepted on the merits.

If this amendment were not defeated on the merits, Mr. President, this measure would be subject to a constitutional point of order. Senate Procedures: Precedents and Practices, going back to our earliest time, provides, as I will read:

> The question of the constitutionality of a measure originating in the Senate as being revenue-raising in nature or the constitutionality of a revenue-raising amendment is submitted by the Presiding Officer directly to the Senate for determination.

This procedure has happened before in our 200-odd years. Although I could not speak with finality, it has been invariably the judgment of the Senate that we who take an oath to uphold and defend the Constitution of the United States against all enemies foreign and domestic are not going to violate it on our own in our own Chamber. As an act of constitutional principle, revenue measures must arise in the popular body. That is provided in our Constitution. It obtains in the Senate as much as in the House. We swear to uphold and defend the Constitution. The system works fine. Surely, in the first business week of the Congress we do not want to start out by offending the principle of comity with the other body. We do not want to pass a bad law and we do not want to take an unconstitutional step.

I cannot think of two more persuasive points. This amendment is unconstitutional, and it would not be good law. I think others—my distinguished friend from Idaho—will differ with me on whether this is a good measure. That is why we debate in this Chamber. But all must share the view that this is a revenue measure and it must originate in the other body.

I see that my distinguished friend and ranking member and former chairman once and future chairman, I do not doubt as the pendulum swings in this body—not too soon we hope—is on the floor. I yield to him the remainder of my time. I am sure the managers will yield him additional time he might want to have.

The PRESIDING OFFICER. The Senator has 7 minutes remaining of the time assigned to him.

Mr. PACKWOOD. Mr. President, if I might use the remainder of the 7 minutes and then ask if I need more time to finish up.

First, I have to chuckle at the revenue raiser that my good friend from Idaho has used. It is known as a speedup, as we call it in the tax law. It is a revenue raiser. It is revenue raised under the so-called shells. You can move the shells around and change their order, but taxpayers will pay this money to the Government eventually. This just accelerates the payment.

The present law requires the corporations to pay their income taxes in advance, on a quarterly basis, based upon their estimated income. Currently, they have to pay at least 97 percent of their estimated taxes in quarterly installments. This percentage decreases to 91 percent in 1997. Senator CRAIG'S amendment requires corporations to continue their estimated payments at 97 percent. I am not going to get into the complicated way they estimate it. However, by requiring payment of 97 percent of their estimated taxes in advance, they do not have to pay these

taxes later. So we have simply moved the payment of taxes from later periods to earlier periods to pay for this amendment. It costs close to $5 billion over 5 years. No matter how you cut it and slice it, it costs $5 billion more than the original Dodd bill, which does not cost the Federal Government anything. I am fully aware the arguments my good friend from Idaho makes that the governments in Europe are paying for family leave. I do not find it an argument as to why we should necessarily pay for it with the deficits we have.

The Dodd bill provides for unpaid leave. We are not asking for the employer, per se, to give paid leave. Some employers do that. Employers can continue to do that. This bill will not prohibit that. We have a family leave policy in my office now and we have had several employees out on paid leave, such as maternity leave. It even applies to fathers as well as to mothers.

I am opposed to the tax credit idea of my good friend from Idaho. While opposing it, I appreciate his concern for the employers that Senator CRAIG is attempting to address because I am also familiar with those concerns. We have had a family leave policy in Oregon, not a Government-financed one, but an unpaid leave policy which the legislature passed in 1987. I recall there were very serious objections raised by employers when the legislature passed this in 1987.

Our Oregon law covers more employers than the Dodd bill does. We only exclude employers with 25 or more employees rather than 50. I am happy to say that none of the dire predictions about the Oregon law came true. A number of employers said they cannot afford this, that it will not work—the normal arguments. In fact, it worked so well that in 1991, the Oregon Legislature expanded the law to cover medical leave in addition to parental leave. Oregon's Bureau of Labor and Industries surveyed Oregon employers in 1990, and they found 88 percent had no difficulty in complying with the family leave law. This is before we added the medical leave. But 88 percent had no difficulty complying with the law that is more stringent than the law we are now considering: Oregon's law applies to employers of 25 or more employees, not 50.

The Families and Work Institute in New York in 1991 completed a study of Oregon and three other States with family leave laws—Minnesota, Rhode Island, and Wisconsin. And the Families and Work Institute study found that certain predictions under family leave laws certainly did not turn out to be accurate; 71 percent of the employers surveyed had no increase in training costs; 81 percent had no increase in unemployment costs; and 73 reported no increase in health insurance costs.

There is no question that my support for the family and medical leave bill is more enthusiastic because of Oregon's experience which has been generally good. But also critical to my support is what I believe is the most important distinction between the Dodd bill and the Craig substitute.

Senator DODD'S bill establishes a national family leave policy and therefore protects workers from having to decide at a time of crisis between their jobs and their family. The amendment of the Senator from Idaho simply does not provide employees with that guarantee. Some employers would opt to provide family leave, others would not. That is the situation we have now. Whether a worker is covered would depend upon the employer. In addition to not protecting workers of private employers, the Craig substitute would not apply to the millions of Government workers and employees of nonprofit organizations which would be covered under the Family and Medical Leave Act. If they do not pay any taxes, and governments do not, and nonprofits do not, then the tax credit, which is a credit against taxes owed is illusory. If you do not owe any taxes, the credit is worthless. So these employers are not covered, whereas they are covered in the Dodd bill.

I understand the concern that providing family leave to employees may cause financial difficulties for some employers, especially small businesses. Small employers do not have the financial flexibility that larger businesses have to cover extended absences by shifting employees from other duties, training temporary employees, or simply maintaining floating employees. However, Senator DODD's bill already exempts many small employers by excluding those with fewer than 50 employees.

If you think about it, 50 employees is a fair size business. You are not going to have innumerable pregnancies and innumerable family leaves out of 50 employees. And as the Dodd bill already exempts the highest paid 10 percent of your employees, you are not going to lose your key employees. Generally, with 50 or more employees, you can adapt.

Senator CRAIG's tax credits alone are not the solution to the needs of employees to be assured that they can take care of their families without losing their jobs. I want to emphasize again how critical this is, not losing your job. That is what the employees face now. If they have a sick parent, or are about to give birth to a child.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PACKWOOD. Can I have 3 more minutes?

Mr. DODD. I am glad to yield 3 more minutes to the Senator.

Mr. PACKWOOD. Mr. President, if there are tax credits, they should be targeted to small employers to provide the assistance to those who need it most and to reduce the costs of the tax credit to the Federal Government.

If tax credits are to be used, I want to emphasize that they are not free—this is a $5 billion program. We are simply going to pay for it using tax dollars now that we would later collect from the same businesses. In later periods, when we do not get it from the businesses because they had prepaid a greater amount of estimated taxes, we will be short then because we have simply speeded up collection to now.

I believe if the tax credits are to be used, then our scarce Federal dollars would be better spent encouraging employers with less than 50 employees who are not covered by the Dodd bill, to offer family leave. And we might also want to lessen any potential hardship on employers with between 50 to 100 employees by extending the tax credits to them.

But given a choice between the Dodd bill and the Craig amendment, I urge my colleague to oppose the Craig substitute tax credits, and instead to enact the Dodd bill, a bill that we have been working on for 7 years, much to the credit of the Senator from Connecticut. And I hope that tomorrow or the next day, when we finally vote on this, it is the last time we have to consider this bill for the next 5 to 10 years, and we can get on to the other problems facing this country.

I thank the Chair, and I thank my good friends from New York and from Connecticut for the time.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I yield 30 seconds to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I would like to join with the Senator from Oregon in congratulating the Senator from Connecticut who, for 7 years, has doggedly pursued this to a moment of deliverance in this week, we cannot doubt.

May I simply say that in the wholly unlikely event the substitute should be adopted, a constitutional point of order will still lay, and that point of order will be made to the Chair.

I thank the Chair. I thank the manager.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Mr. President, I yield myself such time as I may consume.

Let me, first of all, thank Senator MOYNIHAN from New York, the chairman of the Finance Committee, and Senator PACKWOOD, his ranking minority member, for their observations on the tax implications, constitutionally and substantively, regarding the amendment offered by my colleague from Idaho, Senator CRAIG.

As the Senator from New York has properly pointed out, as he has on many other occasions, aside from the merits, which are important to discuss, clearly initiation of a revenue raising

measure with an S number is, ipso facto, unconstitutional, although procedures and precedents here require a vote of the membership. This is a matter that has come up on numerous occasions in the past, and I think the implication is that this body has responded accordingly.

So I thank the Senator immensely for those observations and for Senator PACKWOOD's observations as well about the merits of this amendment.

Let me take a case in point. I am not going to take a lot of time, and hopefully I can yield back some time. But I would like, if I may, to take a case study on tax credits in a related matter, child care, because there are a number of jurisdictions around the country, in fact, where we have provided tax credits for child care.

I think it is very revealing as to how business has responded to a child care tax credit in terms of, I believe most people would agree, a desirable societal goal, to provide child care for people, or to at least relieve their burdens and the financial costs involved.

I think it is interesting that in a recent study on employer tax credits for child care, asset or liability—the child care action campaign, I am told, is the author of the study—in 14 States which have enacted forms of tax credits for child care, fewer than 1 percent of all eligible employers in these States actually claim the credits, despite the fact that they exist on the books.

So for the argument that if you have a credit in place, business will then take advantage of it, clearly an issue like child care, which enjoys broad-based support—I think employers value the idea of employees having decent child care so their minds will be focused on their work and they will be more productive. And yet in 14 States where the tax credit exists, 1 percent of eligible employers take advantage of it. This is sort of instructive if you are looking at a meaningful alternative to a mandate on family and medical leave.

In six States that reported employer participation rates for child care tax credits—Arizona, Kansas, my home State of Connecticut, New Mexico, Oregon, and Pennsylvania—a total of 76 employers in all of those States took advantage of the credits for child care. The study went on to say which employers are attracted to tax credits—employers who already provide child care benefits to their employees. The study further said, "research indicates that even though employers say they want tax credits, they do not use them. The available data show that employer tax credits do not motivate employers to offer child care benefits."

So again, we can hypothesize here about whether or not credits are going to work in this area, but in a related matter affecting child care, in six States, 76 employers took advantage of it.

The idea is that if we are going to effectively deal with providing leave to people who need it—and again, we are not debating that at this point; people need leave. My colleague from Idaho said we are not arguing that—what is the best way to achieve it? What we are saying is if child care benefits are instructive, then employers are not going to take advantage of it. Hence, the employees in those firms would be denied the leave policies, in which case we have accomplished nothing at all except potentially a revenue loss, as the Senator from New York and the Senator from Oregon have already indicated.

There are other matters that have been raised, and just for the purpose of emphasis, obviously nonprofits, governmental agencies, State and local governments, obviously the Senate. Senator GRASSLEY of Iowa has repeatedly raised the issue of making sure Senate employees would receive the same kind of benefits, or that we would not impose on the private sector any mandates that we would not impose on ourselves.

And yet the irony with the tax credit approach, of course, is that for Senate employees, at other than the largesse of the individual Member, we would not be required to provide leave at all because, obviously, we do not provide tax credits any more than they do at the local governmental level, the State governmental level, or in the nonprofit organizations as well. The amendment exempts employers who employ more than 500 employees; 41 percent of all women in the work force work for companies that hire more than 500 people.

So again, none of these proposals is perfect in the sense that we exempt employers who employ less than 50, and that takes out some people. But frankly, at the lower level, that is where there are fewer employees.

As I mentioned earlier, my sense is that employers in small business are far more inclined to assist their employees because they know them; they know their secretary; they know the people on the shop floor. If there is a problem there, it is not some removed statistic or an identification number. They respond. They are human beings.

In larger corporations, larger businesses, where there are 500 or more employees, there is no way the employer is going to act on a case-by-case basis. You have to live with work practices. So when you exempt the employer who employs more than 500, the likelihood that someone is going to be sensitive to the individual employee is far less, it would seem to me, than with the employer who employs 50 or fewer people. In that case, the employer, in my view, is more likely to know the individual.

So we are excluding 41 percent of women in the work force. And again, given the fact that 90 percent of single parents in this country are women raising children and the childhood illness problem is so pronounced, it seems to me that is something all of us are more sensitive to.

Senator MOYNIHAN said we have not really heard of this amendment until the last 48 hours or so. There was an amendment introduced on September 23, 1992, I think is the date, and there have been other suggestions of this in the past.

But nonetheless, there really have not been any hearings on this idea, even if it were not subject to the constitutional issue. We have held some 17 hearings on mandated leave, if you will. As was pointed out, of course, we do not add to the Federal deficit. This is unpaid leave. The employer does not have to pay the employee.

There are some costs associated with it. But again we can get into a battle of studies. But when President Bush's Small Business Administration conducts an analysis of family and medical leave legislation and concludes that it is "always"—to quote the report—"always substantially less expensive to retain an employee than to go out, hire and train a new one," again, that seems to me for those who are concerned on the other side of the aisle about this issue, if the Bush administration's own Small Business Administration would conclude that, to suggest somehow we are talking a staggering amount—the GAO most recent study came out just I think last evening, 7 p.m. Their analysis says $9.50 per covered worker per year. We had $6.50 about 1½ years ago, but frankly because health care costs have risen, 200,000 more people in the work force, that number has gone up. That is the reason that the GAO cites.

Two cents per covered worker per day is not exactly something you can provide a credit for, it seems to me. I would note that I think under the Craig amendment, he can correct me if I am wrong on this, that you would get credit potentially even if you had unpaid leave. Providing tax credit to an employer that does not even provide paid leave, it seems to me to be engaging in a significant largess out of the Federal Treasury, not to mention the $4.8 billion lost dealing with obviously the perplexing problem of the deficit itself.

Job security, of course again, this would be year to year. The employer could decide in 1 year to take credits, and the next year not to. It makes it rather uneven, to put it mildly. The minimum period of leave guaranteed—we have 12 weeks. There would be, potentially, a claiming of credit for 1 day, it seems to me. Again I think that goes beyond what most of us are talking about.

So I respect immensely, and I appreciate my colleague from Idaho framing the debate in the way that I appreciate, and that is we are not really

talking about a good idea. There was a time around here when the very idea of family and medical leave threshold question was debated whether or not it was something we ought to promote. I am pleased to note that we are no longer debating whether or not family and medical leave makes sense. We are now arguing about how best to do it.

If there is a common agreement in this Chamber that family and medical leave is something that ought to be provided for people, then it seems to me we ought to try to select the best method of achieving that result. As I pointed out with the tax credits on child care, which is the substitute here, there is little indication or evidence that tax credits for child care would have done much at all to assist families who need child care. If we take that model and apply it here, it would seem to me that we would be perpetrating an unfair solution for people who are looking for some real help in this area.

Again, we are not covering every person in the work force. But I am not concerned as much that people who work for smaller employers are going to be helped because of the personal relationships.

But here it seems we have an opportunity to do something which has a minor cost involved. After 7 years, almost 20 hearings on the matter, building bipartisan support on this issue, my hope is we will stick with the substance of the bill that Senator BOND, Senator COATS, Senator JEFFORDS, Senator PACKWOOD, Senator D'AMATO, Senator MURKOWSKI, and others have supported previously along with the strong majority on this side. It has taken a lot of effort to pull this bill together, Mr. President. We think it is going to do a good job. We will not know obviously until it is out there working. But based on what other States and jurisdictions have done we think it is the right approach.

Mr. President, I reserve the remainder of my time.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I think it is appropriate that I respond in the closing moments of this debate to some observations that have been made by the Senator from New York and from Oregon, and from the chairman who is the author of the bill that we are attempting to amend at this moment.

I found it ever so slightly amusing, Mr. President, that the Senator from New York would argue constitutionality, especially when he and the Senator from Oregon were primary designers of a bill a few years ago in 1982 called the Tax Equity and Fiscal Responsibility Act of 1982, better known as TEFRA. Now we all know it was written here in the Senate. We all know it passed the Senate before it passed the House. And nobody raised the constitutional question. What did we do? We allowed the bill to languish here until a vehicle came from the House. Then we attached it under the House number and moved it back. That is the way things are done around here. Let us not play the constitutional game when it serves us, and then ignore it when it does something else.

We all know that argument but we know that this is not a tax increase. We know that it is as explained by the Senator from Oregon a speedup in the process, and that speedup generates more revenue and offsets borrowing and offsets interest. That is how we accomplish that.

That is an important factor to understand. There is no new tax but the process is paid for.

Earlier on in my debate, Mr. President, I agreed that the GAO study of some years ago said this was a $612 to $674 million a year nationwide cost or about $5.50. What did I say in debate? The figures were wrong. That figures were misrepresentative of the facts. I did not know that a new study came out last night. But the chairman fairly said it did. The fugures were up to $9-plus. That shows the cost of this bill—now well over $1 billion a year. That is exactly what I said in my debate.

In other words, they do not know what the costs are. I would have to suggest that my studies, the ones I have cited, are substantially more accurate. They really do not know the impact in the workplace. The only thing they are doing, and I think the chairman fairly alluded to it, medical costs have gone up.

So the cost of continuous coverage during the time of leave has gone up, and they are still saying at GAO that is the only cost factor involved. If they are saying that, they are just flat blind. They have never been in the workplace. They do not recognize the cost of efficiency, of productivity, and of training a new employee. They are taking that for granted. Somebody has to pay for it. I suggest to you that the employer will pay for it.

Then we heard a comparison about day care, and reference to a State tax, not a Federal tax. State taxes are much less desirable than Federal tax. Let us all be honest. Providing a day care facility is phenomenally more expensive than providing medical or family leave, and we all know that. We are talking about a physical structure, and new employees to provide for those children of the employees. That is a very toughly negotiated time out there in the workplace. We know there is a substantial difference.

I suggest in this debate you are off limits if you want to compare apples with oranges. We all know they are fruit of a different color. In this instance, when we talk of family and medical leave we are talking of substantially different impacts in all of that.

When we talk about foreign governments again, and paid leave, and I think my colleague from Oregon mentioned that, let us also remember that foreign governments pay the employer the cost of rewarding that leave package. The employer sustains no costs in all of those countries that I have presented to you in this debate. That is awfully important to remember. It is not just paid leave. It is the total cost of the leave package.

One other item I think that deserves to be talked about. My colleague from Oregon said 71 percent of the employers in Oregon offering family and medical leave had experienced no cost increase. Twenty-nine percent did. Twenty-nine percent said they did. That was not factored in here. I would also suggest to you that in the incentive program or the mandate program some would find little cost based on the makeup of their work force. But if they were hiring predominantly women of child-bearing age, it might go up substantially. Yet, in that factor, where you talk about the exclusion of women and maternity care, I and all agree that they make up only 40 percent of the total coverage of either of the two pieces of legislation.

So let us not use them as a solo argument, Mr. President. Let us use them as only 40 percent of the costs involved, and a very important 40 percent. But the rest deals with sick leave and other members of the familys' illnesses and of the illness of the employee, him or herself. You cannot argue all of your argument on 40 percent of your basis. It will not work. You have to argue on 100 percent of your basis. That is the issue at hand.

Are we going to say to State governments that you have to do it? I remember what President Clinton said yesterday to all of the Governors assembled here in this great city: I will not bring down upon you mandates. Let us work cooperatively together to assure that what we do is to the greatest benefit to this country.

Yet, today, on this floor, S. 5 says to all State governments that do not provide this: here is a Federal mandate, get in step and in line, and you pay for it. On that basis alone, the President ought to veto it. But I know he will not. I would not want him to go back on his word to the Governors. He said he would work cooperatively with them. This is a mandate. He will sign the bill if it gets to his desk. He already said so.

Mr. President, amend your statement to Governors. You are mandating something to State governments, if those governments do not already provide within their employment package both parental and medical leave.

Well, those are the issues. I need not go any further. There is a clear difference between the two approaches,

and we know that. There is not a difference with the intent.

Our amendment covers a good deal more people of the workplace. It offers the creativity of employers and employees to design a package that fits their geographic, environment, and unique workplace situation. It is not a straitjacket—one suit fits all. It says do what is good for the good of the country and for the workplace, and in a way you can best fit it into your unique situation.

The chairman this morning was talking about all of those big companies that were providing this benefit. Yet, he just said big companies did not care.

Well, big companies do care. All good employers care. That is not the issue.

Yes, Aetna does provide it. I think I heard him say that this morning. That is a big company. They cared a great deal.

I am talking about the little companies who cannot afford. They care, they simply cannot afford, Mr. President. We want to provide an environment in which it is more possible for them to afford to do it and remain competitive. That is why we go at where the workbase is. That is why we cover 90 percent of the workplace, and S. 5 only covers 40 percent of the workplace.

If you really care, if you really believe in the change that is going on in this country and brining all people into the workplace and creating the greatest flexibility and allowing us to be competitive in a world market, and making sure that the workers in Detroit, MI, are competitive with the workers in Yokohama, Japan, then veto for the incentive package. Vote to create a dynamic marketplace where employees and employers are rewarded for agreeing on the best possible conditions that both want and that most can afford. That is the issue at hand. That is what is important in this debate. It is what we are attempting to achieve, recognizing the tremendous value of the demographic shifts in our country and the importance of the dynamics of a harmonious work force where most are satisfied with the conditions under which they are asked to be employed.

I yield the remainder of my time.

Mr. DODD. I am prepared to yield my time as well, unless someone else wishes to be heard.

Mr. JEFFORDS. I would like to be heard, Mr. President.

I inquire how much time is remaining.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Connecticut has 31 minutes and 36 seconds.

Mr. JEFFORDS. I assure my colleague that I will only need about 10 minutes.

Mr. DODD. I will be glad to yield 10 minutes to my colleague from Vermont.

Mr. JEFFORDS. Mr. President, I am here to speak in opposition to the amendment of the Senator from Idaho. I know it is well intentioned and I am sure it would be helpful. In fact, I say that if the Senator had offered it as had been suggested earlier, perhaps along with the family leave bill, I might find it useful to support it.

But I find that the bill which is before us on which I have worked with the Senator from Connecticut and others for many years is a reasonable choice for us to face on the issues of how to deal with the very serious problems that families face in a time of crisis.

The statistics are known to us all, and have been reiterated earlier today. More and more women have entered the work force, more and more families do not have a spouse to stay home and care for the children, or, increasingly, the parents.

Critics of the legislation predict all manner of terrible consequences. Their arguments would be more persuasive if they did not have to coexist with contradictory facts.

Employers who now have these policies do not find them onerous, State laws across the country are working, and around the globe, our toughest economic competitors are pursuing policies more generous than what we propose today.

My own State of Vermont has adopted a family and medical leave policy that covers employers of 15 or more, less than a third the threshold of coverage of S. 5. There is no outcry from employers. And employees can be secure that they have at least some minimal protection from the type of tragedy that we heard one witness after another testify to in the Labor Committee.

All Americans deserve that security. But this bill recognizes that however desirable that goal might be, it must be balanced against the legitimate interests of employers.

The Craig amendment, which professes to be concerned for all employees, is superficially attractive because it applies in theory to small business.

In practice, of course, small businesses are not apt to adopt leave policies for a few cents for each dollar of phantom wages.

I for one, am a bit surprised that Republicans are arguing for universal coverage of all businesses for Federal purposes. To butcher metaphor, the crocodile who sheds tears today could come back and bite us when it is time to consider OSHA or civil rights or any number of employment statutes.

And in practice, the Craig amendment guarantees absolutely nothing. If you don't want to do much for family leave, you may as well vote for it. If you think families need help, vote against it.

Vote against it because this bill is not "Apocalypse Now" for American business.

The history of this bill has been one set of changes after another designed to accommodate the interests of employers. I became involved in this process in 1987, when with MARGE ROUKEMA I sat down with BILL CLAY and worked out a series of amendments to provide protections for employers.

That was perhaps already the third generation of the legislation, and it has undergone substantial changes since, most notably with the efforts of Senators BOND, FORD, and COATS in the past Congress.

Even this latest version of the legislation seeks to address a real problem of employers, the so-called pay-docking issue. Actions taken as a result of this legislation—the provision of unpaid leave, maintenance of records, and similar steps—will not jeopardize the status of an otherwise exempt employee for the purposes of the Fair Labor Standards Act's white-collar exemption.

This is a partial solution to the pay docking problem to be sure. I happen to think that employers and employees should have the flexibility to adopt partial day unpaid leave for purposes beyond this legislation. But I also think that other aspects of the exemption probably merit revision. I hope that we will build upon today's action and address the broader problem in the near future.

The second issue that I want to discuss briefly is that of reduced and intermittent leave. It has been argued that this year's bill represents a draconian change for the business community. I will concede it has changed from last year's version, but I think it is far from clear how significant the change is and what the sponsors intent has been.

In fact, I think the idea of mutual consent for reduced leave was introduced in H.R. 925 as reported in 1988. In its predecessors, H.R. 4300 and H.R. 925 as introduced, I believe it existed as a unilateral employee right. Interestingly, H.R. 925 as amended provided reduced leave, that is, leave by mutual consent, only in the case of family leave. Intermittent leave, taken without employer consent, was available then as now for medical purposes.

Sometime between then and now, reduced leave by mutual consent was redrafted to apply to medical leave as well as family leave. Great importance is now attached to that change. But I am not sure it is important, as unilateral, intermittent medical leave has been continually available.

Nor do I believe the expansion of reduced leave to medical leave was deliberate. Almost every provision of this bill has somebody's stamp on it. I suspect if some Member or Senator had sought this change, he or she would rise in its defense.

These are technical issues to be sure, but they are important, particularly

since this legislation will soon become law.

This bill will soon become law. I commend the work of the many people who have been involved in its passage over the years, both the people of this Chamber and the other body, and the scores of private citizens who have worked tirelessly on its behalf, attending countless meetings, and working so hard to make sure it comes into law.

Mr. President, every nation, every developed nation, every industrial nation in this world, including even South Africa, has a similar policy.

Vermont, a small State with small businesses, has enacted a law to cover almost all small businesses. They recognize, as we do here, the importance that this has to the families of this Nation to ensure that they can—under the pressures that modern society gives them, with most likely the single parent or both parents working—have time to be able to face those crucial issues of health and problems that we all have to face with our aging parents and the problems that we have bringing up our children.

So I urge our Members to vote against the Craig amendment and to support the legislation in its present form.

Mr. PRESSLER. Mr. President, I am pleased to join my friend from Idaho, Senator CRAIG, as a cosponsor of the flexible family leave tax credit amendment. Congress must recognize that many smaller employers are unable financially to provide employee benefit programs comparable to those offered by larger companies. Other firms offer flexible leave benefits based on their employees' specific needs. This amendment addresses both realities.

As ranking member of the Senate Small Business Committee, I find this provision is a reasoned approach. The amendment would assist smaller employers in providing leave to their employees during times of need. The amendment is designed to recognize both the difficulties faced by many employers in providing leave benefits and the unique circumstances surrounding an employee's need to meet family obligations.

Mr. President, more than 90 percent of America's businesses are defined as small businesses—that is, with 500 or less employees. In fact, more than 95 percent of the businesses in South Dakota are small businesses. Adoption of the flexible family tax credit amendment would assist nearly all businesses in the Nation in providing leave benefits to their employees, particularly those located in rural States where smaller business operations prevail. Most important, leave time availability would not have to be provided at the expenses of other vital employee benefit programs.

It is also important to point out that adoption of this measure will allow S. 5 to reach a far greater number of employees. It is estimated this amendment could cover over 80 percent of our Nation's work force, while S. 5 only reaches approximately 40 percent of the work force. Don't we want to encourage leave benefits to be provided to the greatest number of individuals possible?

Mr. President, the issue of family and medical leave is critically important. However, in addressing this matter, Congress should recognize the unique needs of small businesses and their employees. I urge my colleagues to support this amendment.

Mr. DODD. Mr. President, I yield 1 minute to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent that additional material pertaining to this subject be printed in the RECORD.

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

[Small Business Research Summary, March 1991]

LEAVE POLICIES IN SMALL BUSINESS: FINDINGS FROM THE U.S. SMALL BUSINESS ADMINISTRATION EMPLOYEE LEAVE SURVEY

(By Eileen Trzcinski, Cornell University, Consumer Economics and Housing and William T. Alpert, University of Connecticut, Department of Economics)

PURPOSE

The purpose of this study was to gather basic quantitative information on current leave policies, both formal and informal, available to employees. It was not designed to assess the impact of any specific legislative proposal. Further, it makes no attempt to ascertain how any employer or employee would respond to a changed workplace (meaning the passage of any leave-related legislation).

HIGHLIGHTS

A random sample of 10,000 firms was drawn from the SBA's Small Business Data Base. Interviews were obtained via questionnaires, which were mailed out in December of 1988. Seventeen hundred and thirty (1,730) responses were used in the analysis.

Most employers currently use combinations of paid sick leave, short-term disability leave, unpaid sick leave, and vacation leave to accommodate illness to personnel and family including pregnancy and childbirth. Very few firms offer separate or distinct maternity or infant care leave. However, between 74 and 90 percent of all firms provide some type of leave to their employees which may be used to meet such needs.

Approximately 60 to 70 percent of firms that employ 16 or more workers offer job-guaranteed sick leave.

Between 20 to 30 percent offer unpaid sick leave without a job guaranteed.

Such leaves are typically of an unspecified or variable length.

The majority of firms interviewed had no experience with any type of leave-taking in the 12 months preceding the survey. Firms that had formal leave policies, however, experienced greater incidence of leave taking than firms that did not. This is an indication that a mandatory leave policy will increase the incidence of leave-taking beyond that found in this survey.

The net cost of handling the work of leave-taking falls between $22 per week, in firms that employ less than 100 workers, to $90 per week in large firms. These estimates exclude health care continuation costs which would add approximately $32 per week per leave-taker.

The estimated cost of providing six weeks of unpaid leave for maternity and childbirth, including continuing health benefits, is approximately $612 million. No legislation under current consideration is so limited. Providing 12 weeks of coverage and adding leave for other family circumstances will increase costs.

(SBA calculations based on study findings suggest that the cost of providing 12 weeks of unpaid leave and providing for continued health coverage ranged from between $1.2 billion and $7.9 billion annually in 1989, assuming that the incidence of leave-taking would have remained the same. If the incidence of leave-taking rises under mandated leave, which the study indicates would happen, the annual costs of mandated leave would be much higher.)

Permanently separating workers because of illness, disability, pregnancy, or childbirth is an infrequent (and higher cost) employer response: only between 0.1 and 0.5 percent of managers, and between 0.9 and 2.8 percent of nonmanagers in the firms studied terminated their employment in the preceding 12 months for these reasons. Thus, accommodating an employee's leave needs is a logical, cost-effective employer response.

Most firms reassign the work of the leave-taking manager (between 64 and 72 percent). About 70 percent of firms in all size categories reassign the work of leave-taking nonmanagers while about 42 percent of the small and 64 percent of the larger businesses temporarily replace nonmanagers while they are on leave.

For further information, contact the U.S. Small Business Administration. Office of Advocacy, at (202) 205-6533.

U.S. GENERAL ACCOUNTING OFFICE,
HUMAN RESOURCES DIVISION,
Washington, DC, November 10, 1987.

B-229386

Hon. WILLIAM L. CLAY, *Chairman,*
Hon. MARGE ROUKEMA, *Ranking Minority Member,*
Subcommittee on Labor-Management Relations, Committee on Education and Labor.

This report responds to your request for a cost estimate of H.R. 925, "The Family and Medical Leave Act of 1987," as amended. This bill permits employees to take up to 10 weeks of unpaid leave over a 2-year period upon the birth, adoption, or serious illness of a child or parent and up to 15 weeks every 2 years for their own illness. Upon returning to work an employee is guaranteed the same, or an equivalent job. In the first 3 years after enactment, firms employing 50 or more people are subject to the legislation, and thereafter firms employing 35 or more people must provide these benefits. The legislation also specifies that employers must continue health benefits for workers while on unpaid leave on the same basis as if the employee were still working, but does not require the continuance of other employee benefits. To qualify for the unpaid leave, employees must have worked in the firm 20 or more hours per week for 1 year, but a firm's highest paid 10 percent or 5 employees, whichever is greater, may be excluded from coverage.

We estimate the cost of this legislation to employers having 50 or more workers will be about $188 million annually. This represents

the cost to employers for the continuation of health insurance coverage for employees on unpaid leave. The table below shows our estimate of the number of beneficiaries and the employer costs for each provision.

[In millions of dollars]

Provision	Beneficiaries	Cost
Birth or adoption	840,000	$90
Seriously ill child	60,000	10
Seriously ill parent	165,000	35
Temporary medical leave	610,000	53
Total	1,675,000	188

With firms employing between 35 and 49 people included, we estimate the annual cost to be about $212 million.

Based on data obtained from employers we surveyed and our review of national studies of employer-provided parental leave, we believe there will be little, if any, measurable net cost to employers associated with replacing workers or maintaining current levels of output while workers are on unpaid leave. Firms told us that less than one-third of the workers are replaced and that, for workers that were replaced, the cost of replacements was similar to or less than the cost of the workers being replaced. Other absences were handled by reallocating work among the remaining work force. While some disruption occurred as a result of work reallocation or the hiring of temporary workers, the firms also experienced savings in that no wages had to be paid to the absent workers.

Although there will be costs associated with the federal administration and enforcement of this legislation, we cannot predict the extent to which violations will be alleged that would require investigation and possible adjudication. Therefore, we are unable to estimate these costs.

METHODOLOGY

To develop our cost estimate, we obtained data from numerous sources, as explained on pages 6 to 19. We estimated the number of workers likely to take unpaid leave under the new child provision from data in the March 1987 supplement to the Current Population Survey (CPS) conducted by the Bureau of the Census; the number likely to take leave under the sick child and temporary medical leave provisions from data in the 1985 National Health Interview Survey conducted by the National Center for Health Statistics; and the number likely to take leave under the ill parent provision from data in the 1982 National Long Term Care Survey sponsored by the Department of Health and Human Services. We also surveyed 80 firms in two metropolitan labor markets—Detroit, Michigan, and Charleston, South Carolina—to obtain experience data on the usage of parental leave, and how employers cope with extended absences. To estimate the employer portion of health benefit costs, we used data from a Small Business Administration (SBA) study of employee benefits in small and large firms. The weekly average employer cost per worker in 1985 was estimated to be about $25 for firms covered under this bill.

For each of the bill's provisions, we assumed that all individuals with circumstances that might necessitate extended leave would take off either the full period allowed by the bill or the entire period of illness, whichever is less. Using data from the 1986 Bureau of Labor Statistics Survey of Employee Benefits in Medium and Large Firms and the SBA study of employee benefits, we estimated the extent that workers have existing paid sick, vacation, or disability leave available to use before taking unpaid leave under any of the provisions of this legislation.

LEAVE TO CARE FOR NEW CHILDREN

We estimate that the cost of continuing health benefits for workers on unpaid leave to care for new children will be about $90 million annually ($102 million annually when firms with between 35 and 49 employees are included).

Unpaid leave to care for new children is used almost exclusively by women. Studies of firms in the United States and in other countries that allow parental leave for men as well as women, in addition to our own survey of companies, support this conclusion. According to the CPS, about 2.2 million working women gave birth or adopted a child in 1986. Given the 1-year tenure requirement and the firm size exclusion, we estimate that about 840,000 women would be covered by this provision of the legislation. We assumed that women will take the full 10 weeks of leave allowed, but about 6 weeks of this leave will be their available paid vacation, sick, and disability leave.

LEAVE TO CARE FOR SERIOUSLY ILL CHILDREN

We estimate the annual cost to employers for continued health coverage under this provision to be $10 million ($11 million annually when firms with between 35 and 49 employees are included). Using information from the National Health Interview Survey, defining serious illness as 31 or more days of bed rest, and assuming that one parent takes leave to care for each child for the duration of their illness (up to 10 weeks), we estimate that about 60,000 workers would take leave, averaging 7.8 weeks per worker. We also assumed that those workers would use their paid vacation leave, which averages 1.6 weeks, before taking unpaid leave.

LEAVE TO CARE FOR SERIOUSLY ILL PARENTS

We estimate the costs to employers for continuing health insurance coverage of workers on unpaid leave to care for seriously ill parents is about $35 million annually ($38 million annually when firms with between 35 and 49 employees are included). Using information from the 1982 National Long-Term Care Survey, we estimate that about 165,000 workers are caring for parents with serious disabilities. We assumed that one worker would take the full 10 weeks of leave authorized by this legislation. We also assumed that these workers would use paid vacation leave, which averages about 1.6 weeks per worker, before taking unpaid leave.

TEMPORARY MEDICAL LEAVE

We estimate that the health insurance cost to employers of this provision is about $53 million annually ($61 million annually when firms with between 35 and 49 employees are included). Again using the National Health Interview Survey, we estimate that about 61,000 workers having 31 or more days of bed rest would be eligible under this provision. About 40 percent of workers have short-term disability coverage, which would provide paid leave for their illness. Other workers have an average of 3.3 weeks of paid sick and vacation leave available before they would take unpaid leave. The average duration of illness for these workers is estimated to be about 8.9 weeks.

Our estimates likely overstate the costs of this legislation because we have not adjusted them to reflect the fact that some firms already have parental leave policies similar to the provisions of this legislation and that other employers make accommodations to workers who are ill or have children who are ill for extended periods of time, even in the absence of a formal leave policy. In addition, several states already have disability and/or parental leave statutes containing provisions similar to those in this legislation.

There is another matter related to the cost of this legislation that warrants your attention, namely the need to clarify the definition of serious health condition under the provisions of the bill permitting leave to care for seriously ill children and temporary medical disability. Currently there is substantial room for varying interpretations. For example, the cost of the bill would increase by nearly $120 million if serious illness is assumed to be 21 days or more of bed rest rather than 31 days as in our estimate.

As requested by your office, we have not obtained agency comments on this report. We will send copies of this report to appropriate congressional committees, other interested parties, and will make copies available to others on request.

RICHARD L. FOGEL,
Assistant Comptroller General.

[U.S. Senate Republican Policy Committee, Apr. 24, 1991]

THE SBA-SPONSORED STUDY OF PARENTAL LEAVE: WHAT DOES IT MEAN?

A study of the extent to which small businesses have made family and medical leave available to their employees has touched off a controversy between the two university professors who produced it and officials at the agency that commissioned it.

That controversy is likely to spill over into Senate debate on S. 5, the Family and Medical Leave Act, which the Labor Committee favorably reported earlier today. S. 5 would require firms with 50 or more employees to give workers up to 12 weeks of unpaid leave when they are sick, when their children or parents fall ill, and when they take time to care for newborn or newly adopted children.

At issue is the cost of federal legislation requiring businesses to provide such leave to their employees. The study, released last month, concluded that the costs to businesses of offering maternity and infant care leave would be "relatively small"—about $612 million. But the Small Business Administration (SBA), in a "Research Summary" of the study, said that the costs could approach $8 billion.

WHAT THE STUDY SAYS

Based on responses from 1,730 small businesses to a questionnaire prepared by Professors Eileen Trzcinski of Cornell University and William Alpert of the University of Connecticut, the study found that most firms accommodate employees who need time off to care for their newborn children. Although few surveyed firms had specific maternity or infant care leave policies, between 74 and 90 percent allow employees to use some type of leave for these purposes. Some 60–70 percent of firms who employ at least 16 workers also offer job-protected unpaid sick leave of an unspecified or variable duration.

They also found such leave-taking to be somewhat rare. Less than three percent of workers in firms employing fewer than 100 people took unpaid maternity, infant care, or sick leave in the 12-month period prior to the survey. Among larger firms, that figure dropped to a fraction of one percent.

The study's authors reported that only one percent of the firms surveyed offer non-discretionary parental or sick leave; in other businesses, the employer decides whether to grant leave. "Employees must negotiate for

these conditions," Trzcinski and Alpert wrote. "They do not receive them as a right and entitlement of employment."

That the incidence of leave-taking would increase if the government were to mandate it. The study's authors assumed that "if a federal mandate is issued, employees will take leave in the same proportion that they currently use leave in companies already providing leave." However, the study shows that the incidence of leave-taking at firms with formal leave policies is 2 to 10 times greater than at firms without formal policies.

CONCLUSION

The Trzcinski and Alpert study, while it has made a useful contribution to the debate over family and medical leave, does not provide reliable estimates of the costs of S. 5. By assuming that the federal government would mandate only maternity and infant care leave and that it would limit this leave to six weeks, the study has almost certainly understated S. 5's costs. Just how badly it understated them will continue to be a matter of dispute.

HOW MUCH WILL IT COST?

Cost estimates, assumptions and S. 5 provisions.

Study: $612 million assumptions: 6 weeks leave, maternity and infant care, all leave unpaid.

SBA: $1.2—$7.9 billion assumptions: 12 weeks leave, maternity and infant care, lower estimate assumes all leave unpaid; higher assumes combination of paid and unpaid.

S. 5: provisions: 12 weeks leave, maternity, infant care, sick parent or child, medical or adoption leave, employee can choose to take combination of paid and unpaid.

COMPARISON OF DIFFERENT FAMILY LEAVE APPROACHES, FEB. 2, 1993

	Federally Mandated Family Leave Act S. —/ H.R. 1 (Dodd-Ford)	Flexible Family Leave Tax Credit Act S. 10/ H.R. — (Craig-Goodling)
Business workplaces covered.	Those with 50 or more employees (about 5 percent)[1].	Those with 500 or fewer employees (99.8 percent).[2]
Employees in covered workplaces.	40–50 percent[1]	80.5 percent.[2]
Type of legislation	Federally mandated fringe benefit.	20 percent refundable tax credit incentive.
Budget revenue impact.	NA[3]	Cost: $4.8 billion/5 yrs offset: $5.5 billion/ 5yrs—deficit-neutral.[4]
Cost imposed on employers.	$2.4 billion minimum[5]	NA—leave is based on employee-employer negotiation and encouraged by tax incentive.
Type of leave	Unpaid	Unpaid or paid.
	Birth, adoption, serious health condition of child, parent, or employee.	Same.
Health coverage continued.	Yes	Yes.
Job and benefits protected/reinstated.	Yes	Yes.
Enforcement	Secretary of Labor issues regulations; aggrieved employee obtains complaint and enforcement from Secretary or files civil action.	Secretary of Treasury issues regulations; credit is conditional on leave granted.

[1]Source: Committee reports on S. 5/H.R. 2.
[2]Source: Office of Management and Budget.
[3]In the committee reports on S. 5/H.R. 2, the Congressional Budget Office estimated no revenue impact. Since the additional costs mandated will likely cause the loss of thousands of jobs and much taxable income, this conclusion is arguable.
[4]Based on Joint Tax Committee estimates of S. 3265 and H.R. 11, 102d Congress.
[5]Based on a combination of General Accounting office and Small Business Administration methodologies. In 1991, SBA estimated that 12 weeks of mandated maternity leave alone would cost employers $1.2–7.9 billion a year. GAO's earlier report estimated this type leave would account for about half of the leave taken under the mandate bill.

REVENUE OFFSET: MODIFY ESTIMATED TAX PAYMENT RULES FOR LARGE CORPORATIONS

PRESENT LAW

A corporation is subject to an addition to tax for any underpayment of estimated tax. For taxable years beginning after June 30, 1992 and before 1997, a corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least 97 percent of the tax liability shown on the return for the current taxable year. A corporation may estimate its current year tax liability based upon a method that annualizes its income through the period ending with either the month or the quarter ending prior to the estimated tax payment date.

For taxable years beginning after 1996, the 97-percent requirement becomes a 91-percent requirement. The present law 97-percent and 91-percent requirements were added by the Unemployment Compensation Amendments of 1992.

A corporation that is not a "large corporation" generally may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year (the "100 percent of last year's liability safe harbor"). A large corporation may use this rule with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

EXPLANATION OF PROVISION

For taxable years beginning after 1992, a corporation that does not use the 100 percent of last year's liability safe harbor for its estimated tax payments is required to base its estimated tax payments in every year on 97 percent (rather than 91 percent beginning in 1997) of its current year tax liability whether such liability is determined on an actual or annualized basis.

The bill does not change the present-law availability of the 100 percent of last year's liability safe harbor for large or small corporations.

In addition, the bill modifies the rules relating to income annualization for corporate estimated tax purposes. Under the bill, annualized income is to be determined based on the corporation's activity for the first 3 months of the taxable year (in the case of the first and second estimated tax installments); the first 6 months of the taxable year (in the case of the third estimated tax installment); and the first 9 months of the taxable year (in the case of the fourth estimated tax installment). Alternatively, a corporation may elect to determine its annualized income based on the corporation's activity for either: (1) the first 3 months of the taxable year (in the case of the first estimated tax installment); the first 4 months of the taxable year (in the case of the second estimated tax installment); the first 7 months of the taxable year (in the case of the third estimated tax installment); and the first 10 months of the taxable year (in the case of the fourth estimated tax installment); or (2) the first 3 months of the taxable year (in the case of the first estimated tax installment); the first 5 months of the taxable year (in the case of the second estimated tax installment); the first 8 months of the taxable year (in the case of the third estimated tax installment); and the first 11 months of the taxable year (in the case of the fourth estimated tax installment). An election to use either of the annualized income patterns described in (1) or (2) above must be made on or before the due date of the second estimated tax installment for the taxable year for which the election is to apply, in a manner prescribed by the Secretary of the Treasury.

Reason for using a refundable credit instead of a different tax incentive:

S. 841 in the 102d Congress actually included a 50% deduction. After discussions with the last Administration and colleagues we changed this to a credit:

Many of the costs associated with unpaid leave, especially, may be hard to quantify to the satisfaction of the IRS;

Precedent: Similar in that respect to the TJTC (Targeted Jobs Tax Credit), which recognizes that some of the marginal costs of recruiting and training disadvantaged employees my be less than obviously tangible;

A 20% tax credit will be a good rule-of-thumb indicator of cost of unpaid leave, generally approximating about twice the average cost of continuing health insurance;

It's supposed to be an incentive—meant both to empower and motivate employers to grant family leave.

Why give the employer a tax break when the intended beneficiary is the employee?

We do that with deductibility of employer-provided health insurance, life insurance, educational assistance, legal assistance, pensions, the TJTC, and all other incentives for the employer to act to benefit the employee.

NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS,
Washington, DC, January 21, 1993.

DEAR SENATOR: On behalf of the 40,000 companies represented by the National Association of Wholesaler-Distributors (NAW), we urge you to cosponsor and support S. 10, the Flexible Family Leave Tax Credit Act of 1993, introduced on January 21st, which will provide a refundable tax credit to companies which provide family and medical leave to their employees.

NAW supports family and medical leave policies which are privately negotiated and provide flexibility for both employers and employees. Unfortunately, legislation (S.5) recently introduced which federally mandates family and medical leave, provides neither.

S. 10 will extend to all companies with fewer than 500 employees a 20 percent tax credit for any and all expenses—up to $1,200 per employee—incurred as the result of family and medical leave policies. Not only does this legislation help businesses cope with employee family and medical leave needs, but encourages employers—no matter how small—to offer this as a paid benefit.

The introduction of S.10 has created a golden opportunity for Congress to enact responsible legislation which both recognizes the needs of working families and provides businesses with the economic incentives to facilitate public policy.

Again, we urge you to cosponsor and support S. 10, the Flexible Family Leave Tax Credit Act.

Thank you for your consideration.

Sincerely,

MARY T. TAVENNER,
Senior Director—Government Relations.

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, DC, January 29, 1993.

Hon. JOHN H. CHAFEE,
U.S. Senate, Washington, DC.

DEAR SENATOR CHAFEE: The National Association of Manufacturers (NAM) encourages your support for the Flexible Family Leave

Tax Credit, S. 10. Rather than mandate employers to provide a specific leave benefit which may or may not be advantageous for employees, this incentive approach allows employers to determine whether family leave benefits should be provided and offers a 20% refundable tax credit for employers with 500 or fewer employees who do provide up to 12 weeks of leave. Employers not covered by S. 5, those with 50 or fewer employees, would be eligible for the tax credit.

The tax credit approach is far more realistic than a mandate, as it permits employers to factor in relevant workforce data, e.g., affordability and level of employee demand for unpaid leave, as they decide whether to provide this benefit. While the NAM encourages employers to voluntarily provide a variety of family-friendly benefits, including leaves, we recognize that not all employers are in a position to offer lengthy leave and continue viable business operations.

Whether or not you support S. 5, you should consider supporting S. 10. The NAM urges your close review of this legislation.

Sincerely,

MICHAEL E. BARODY.

SOCIETY FOR HUMAN RESOURCE MANAGEMENT,
Alexandria, VA, February 1, 1993.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: As you know, the Senate is scheduled to consider S. 5, the Family and Medical Leave Act this week. On behalf of the members of the Society for Human Resource Management (SHRM), the professionals who will be charged with the proper and cost effective administration of this proposal, I urge you to address several of the practical and administrative aspects of the legislation. SHRM is the leading voice of the human resource profession, representing the interests of more than 53,000 professional and student members from around the world. SHRM provides its membership with education and information services, conferences and seminars, government and media representation, and publications that equip human resource professionals to become leaders and decision makers within their organizations.

SHRM has long supported programs and policies which provide incentives for employers to offer creative work and family benefits. Accordingly, we encourage you to support Senator Craig's Flexible Family Leave Tax Credit, S. 10, which would make available a refundable tax credit when employers provide up to 12 weeks of family and medical leave. We also urge you to support Senator Kassebaum's amendment which would exempt employers from S. 5, who offer family leave in a cafeteria benefits plan, and Senator Pressler's amendments regarding COBRA continuation coverage, the Fair Labor Standards Act docking of overtime issue, and to expand the commission on leave to ensure a comprehensive study of the impact of S. 5.

We also urge you to delete the reduced leave schedule language which would allow employees to set their own work schedules (an expansion to last year's bill) and to delete the provision which allows the Department of Labor to determine what constitutes a "health care provider". SHRM also supports amendments which would reduce the impact of litigation resulting from this proposal.

Throughout the floor debate on S. 5, we hope that you will turn to SHRM's Government and Public Affairs Office (703-548-3440, ext. 3603) with any questions you have concerning amendments or the practical and administrative aspects of the proposal.

Sincerely,

MICHAEL R. LOSEY, SPHR,
President & CEO.

BUSINESS AND INDUSTRIAL COUNCIL,
Washington, DC, January 29, 1993.

Hon. LARRY CRAIG,
U.S. Senate, Washington, DC.

DEAR SENATOR CRAIG: On behalf of the 1500 member CEOs of the United States Business and Industrial Council, I congratulate you on re-introducing the Flexible Family Leave Tax Credit Act of 1993.

Your bill, permitting employers to use tax credits to offset the cost of offering leave for their own or a family members illness or emergency offers an approach much to be preferred to federal mandates.

By permitting employers to use refundable tax credits to offset costs of offering leave, to partially replace lost wages of employees on leave, your amendment highlights the real problem with benefit mandates—the cost of the mandate.

The Council supports your efforts to offer a reasonable alternative to benefit mandates, stands ready to assist your efforts.

Sincerely yours,

C. BRYAN LITTLE,
Director for Government Relations.

NATIONAL GROCERS ASSOCIATION,
January 28, 1993.

Hon. LYNN SCHENK,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE SCHENK: I am writing on behalf of the members of the National Grocers Association (N.G.A.). N.G.A. represents the retail and wholesale grocers who comprise the independent sector of the industry. They operate 50,000 stores which account for nearly one-half of all groceries sold in the United States.

The Family and Medical Leave Act, H.R. 1 and S. 5, were introduced on the first day of the 103rd Congress and floor votes are expected next week. I ask that you vote to oppose mandated family leave benefits and to support flexibility in businesses' employee benefit policies.

The grocery industry is a labor intensive industry. Employees are considered valuable assets and employers provide a comprehensive package of benefits which best meets their individual needs. Because it is critical for a grocer to retain good and loyal employees, providing family and medical leave on a voluntary basis is more the norm than the exception. As the demand for quality service employees grows more acute, all employers will look to enhance their benefits. Fundamentally, N.G.A. objects to federally mandated benefits which will increase the already excessive regulatory burden under which grocers must now operate and will place other, more valuable, employee benefits at risk.

Second, I would like to express our concern over a statement made recently by a proponent of H.R. 1 at the recent Clinton economic summit, who specifically solicited support for mandatory paid leave. As many responsible employers have suspected, the passage of H.R. 1 or S. 5, is only the preliminary step in proponents' strategy to enact mandatory paid leave. In the last Congress, Senator Kennedy stressed that he believed that once the principle of family, medical leave is established, "it will be expanded over the years ahead." The sentiment that this bill is only the first step was reiterated at recent committee hearings on the legislation. Mandatory paid leave would not only place pressure on employers to reduce the number of employees but would threaten the very survival of many small businesses. The bill contains 30 pages of statutory language which only adds to the regulatory burden placed on business. We do not need further regulatory expansion of coverage which proponents are advocating.

Third, I urge you to consider several specific aspects of the legislation as it was reported by the committees. Provisions within the legislation will make the bill difficult, if not legally impossible, for employers to administer.

The bill creates significant confusion as to whether the employer and employee must agree before reduced or intermittent leave is granted.

The definition of "health care provider" is anyone certified by the Department of Labor. No statutory limits are imposed on the DOL in determining who is a qualified "health care provider."

The legislation does not statutorily clarify that employers would be able to permit salaried employees to take partial day unpaid medical leave in conflict with the Department of Labor regulations as currently enforced.

I strongly urge you, on behalf of the members of the National Grocers Association, to oppose the Family and Medical Leave Act and to oppose any expansion of the scope or benefits of the bill, especially any amendment for mandatory *paid* leave. In addition, I urge you to consider the specific issues addressed above which will make the legislation difficult to administer and to enforce. A far better alternative for Congress to pursue would be to provide tax incentives to business which encourage voluntary and flexible family and medical leave. Such a proposal, as introduced by Senator Craig in S. 10, would provide family and medical leave benefits to twice as many employees.

Sincerely,

THOMAS K. ZAUCHA,
President and CEO.

ASSOCIATED BUILDERS AND CONTRACTORS, INC.,
Washington, DC, January 29, 1993.

U.S. Senate,
Washington, DC.

DEAR SENATOR: Soon the Senate will be voting on S. 5, legislation that would grant employees mandatory unpaid family and medical leave. On behalf of Associated Builders and Contractors and its more than 16,000 member companies, I strongly urge you to vote against this "one-size-fits-all" mandate on employers.

ABC and its members are sympathetic to the ever-changing needs of their employees. We recognize that to retain a quality workforce we must remain competitive in the benefits we offer. However, ABC feels strongly that a system of federally mandated benefits does not take into account the unique nature of some industries, such as construction, and prohibits employers from offering benefit packages that are suited to the needs of their employees. To assure that employees are provided with benefit packages that reflect their specific needs, ABC supports employer tax incentives such as the flexible family leave tax credit legislation introduced by Senator Larry Craig (S. 10).

S. 10 is similar to S. 3265 offered in the 102nd Congress and builds on other family leave tax incentives initiatives introduced in the 101st and 102nd Congresses. The bill

would make available a refundable tax credit based on 20% of an employee's usual compensation, when the employer gives the employee up to 12 weeks off for family or medical leave. The tax credit would be dependent on the employee's reinstatement and continuation of benefits.

The Joint Tax Committee (JTC) recently estimated cost of the S. 3265 tax credit at $4.8 billion through FY 1998. S. 10 provides, to offset this revenue loss, a 100% estimated tax payment rule for large corporations which would yield almost $5.7 billion over 5 years. This same provision was included in H.R. 11 in the 102nd Congress and was not controversial.

In addition to our fundamental concerns about S. 5, we are also disturbed that this legislation has been portrayed as being identical to the family and medical leave bill vetoed last year. S. 5 has been greatly expanded from last year's initiative by adding a provision allowing employees to take leave on a "reduced leave schedule" without any consultation with the employer.

The family and medical leave bill vetoed in the 102nd Congress would have allowed employees to take leave on a schedule that reduces the usual hours worked per day or per week when that schedule is made in consultation with the employer. S. 5 would allow an employee to demand to take leave on any varying schedule they prefer, with no consultation with their employer or coworkers. Clearly, this unilateral process places an inordinate burden on both the employer and fellow employees of the person taking leave.

Other provisions of the bill that ABC has difficulty with include the length of leave proposed for medical reasons, the threat of divergent state and federal mandates (particularly for multi-state businesses), and leaving the determination of who is a qualified "health care provider" for the purposes of the bill to the discretion of the Secretary of Labor. Further, we are concerned about the lack of incentive for employees to return to work after their 12 week hiatus while benefits have continued to be paid, and that the language added to "fix" the FMLA/FLSA conflict does not permit leave for other family purposes not expressly covered by FMLA risk liability.

ABC continues to oppose the proposed family and medical leave legislation, S. 5, due its "one-size-fits-all" approach and because of the concerns we have outlined above. Instead, ABC strongly urges you to support tax incentives to further enable and encourage employers to offer competitive benefits tailored to their employees' specific needs.

Sincerely,

CHARLOTTE W. HERBERT,
Vice President, Government Relations.

Mr. DODD. Mr. President, if there is no further discussion on this amendment, I am prepared to yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. All time has been yielded back.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. GORTON. Mr. President, this Senator has at the desk four relatively modest amendments to the bill. He does not intend to call them up at this instant because my staff and the staff of the distinguished Senator from Connecticut are working over some of these amendments to see whether or not some or all of them may be acceptable. So I will use a very few minutes at this point to explain in general terms what the four amendments are about and to ask for their kind consideration by the Senator from Connecticut.

The PRESIDING OFFICER. The Senator may proceed.

Mr. GORTON. I begin this by saying to the Senator from Connecticut I know of the countless hours he has devoted to this cause and his dedication to the cause, and I wish to ensure him that none of these amendments, whatever the views of this Senator on the bill as a whole, are designed in any way to be destructive amendments. They are being proposed on the overwhelming assumption that this bill is going to become law, and they are designed to clarify some places in which we think it is somewhat vague.

In one case, they are based on a request from an organization that deals with adoption. In others, they are based on Washington State law on this subject, which has been in effect for some 4 years at the present time and has been found to clarify and to smooth the way in which leave is undertaken.

In any event, the first of the four amendments would clarify the definitions section in the definition of the words "parent" and "child," to ensure that adoption and foster care situations are adequately covered. In this case, I want to make certain that adopted and foster children are treated in the same fashion that natural children are. The language in the amendment we received from the National Council For Adoption and the Adoptive Families of America. It is a very narrow amendment simply designed to clarify the applicability of the bill itself to people who find themselves in that position.

The second of the four amendments relates to the 12 weeks of leave and simply adds a subsection which would clarify what I am absolutely certain is the intent of the bill, that there will be a total of 12 weeks of leave available to eligible employees in any 12-months period. We feel this is implied throughout the bill, but we cannot find that it is specifically so stated. I may be wrong on this, and I could stand corrected if this is absolutely clear. The amendment is simply designed to see to it that it is clear.

The third and fourth amendments are somewhat more substantive than the first two. But the first of those deals with key personnel. The bill, in dealing with businesses and particularly with small businesses, allows employers to designate the 10 percent of their employees who will be affected by the exemption. As we understand the bill as it appears at the present time, those 10 percent of employees of any employer who are the most highly compensated can be exempted from the bill. Basing our proposals on what takes place in Washington State under its law, we give the employer the opportunity to designate 10 percent of his employees, who will probably be the 10 percent most highly compensated but do not necessarily have to be. I do not think this will be misused. We required that designation to be made in advance so it cannot be an ad hoc situation to prevent anyone who wishes a leave from taking it.

But the specific example of this I think is the company of 100 employees, of whom 10 could be exempt. The 10 most highly paid other than the owner or the CEO are very likely all to be commission salesmen, people who are actually selling whatever product is manufactured or whatever service is offered. But it may very well be that the 9th or 10th most important person to the employer is the chief fiscal officer who, by reason of being on a regular salary, may not be in the top 10 percent most paid.

We think the employer should have the ability to make these designations as long as they are made in an objective fashion. It does not add to or expand the exemption. The percentage remains the same. The employer has a greater degree of flexibility as to which people he considers to be key employees. And it goes without saying that pay is not the sole standard in every business of who the most important employees are.

The final, the fourth, of these four amendments, would require that the 30-days notice which is in the bill be in written form and include the dates which are sought for the leave. It also, in the amendment, includes the specific instances under which 30-days notice is not required, and most of those, of course, have to do with birth, birth which cannot be predicted with precise accuracy at the beginning of the time. But the Senate of Washington has found that the kind of written documentation which is provided when written notice is required has prevented a great deal of unnecessary litigation and makes it far easier to determine whether or not both the law and the particular leave policy have been complied with.

As a consequence, Mr. President, as I say, these are not earth-shattering amendments by any stretch of the imagination. They are relatively minor. They cover minor elements of the bill. They are, I can tell my colleague from Connecticut, designed to see to it that on the very real assump-

tion that this bill becomes law, its provisions are clear both to employers and employees. My preference is to wait to introduce those amendments until we have had a chance to discuss them objectively with the Senator from Connecticut.

I thank him for his consideration before I spoke here and his willingness to look at them with, I hope, some degree of favor.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate resume consideration of S. 5 on Wednesday, February 3, at 9:30 a.m.; that once the bill is reported, Senator GORTON be recognized to offer up to two amendments relating to S. 5, on which there be a total time limitation of 30 minutes equally divided and controlled in the usual form; that no second-degree amendments be in order thereto, nor to any language proposed to be stricken; that upon disposition of the Craig amendment, the Senate proceed to vote on, or in relation to, the Gorton amendment or emendments.

The PRESIDING OFFICER (Mr. SIMON). Is there objection?

Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Senate Resolution 4, 95th Congress, Senate Resolution 448, 96th Congress, and Senate Resolution 127, 98th Congress, as amended by Senate Resolution 100, 101st Congress, appoints the Senator from Oregon [Mr. HATFIELD] to the Select Committee on Indian Affairs.

REPORTS OF COMMITTEES SUBMITTED DURING RECESS

Under the authority of the order of the Senate of January 5, 1993, the following report was submitted on February 1, 1993, during the recess of the Senate:

By Mr. BYRD, from the Committee on Appropriations:

Senate Resolution 48, authorizing expenditures by the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. Res. 49. An original resolution authorizing expenditures by the Committee on Labor and Human Resources.

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 50. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs.

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. Res. 51. An original resolution authorizing expenditures by the Committee on Armed Services.

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment:

S. Res. 52. An original resolution authorizing expenditures by the Select Committee on Indian Affairs.

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

S. Res. 53. An original resolution authorizing expenditures by the Committee on Environment and Public Works.

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. Res. 55. An original resolution authorizing expenditures by the Committee on Governmental Affairs.

By Mr. MOYNIHAN, from the Committee on Finance, without amendment:

S. Res. 56. An original resolution authorizing expenditures by the Committee on Finance.

By Mr. SASSER, from the Committee on the Budget, without amendment:

S. Res. 57. An original resolution authorizing expenditures by the Committee on the Budget.

By Mr. BUMPERS, from the Committee on Small Business, without amendment:

S. Res. 58. An original resolution authorizing expenditures by the Committee on Small Business.

By Mr. ROCKEFELLER, from the Committee on Veterans Affairs, without amendment:

S. Res. 59. An original resolution authorizing expenditures by the Committee on Veterans' Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN:

S. 267. A bill to amend the Fair Labor Standards Act of 1938 to exempt garment and certain other related employees from minimum wage and maximum hour requirements, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BAUCUS (for himself, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. REID, Mr. CONRAD, and Mr. DANFORTH):

S. 268. A bill to extend the period during which the United States Trade Representative is required to identify trade liberalization priorities, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. REID, Mr. LEVIN, and Mr. DANFORTH):

S. 269. A bill to amend the Trade Act of 1974 to provide that interested persons may request review by the Trade Representative of a foreign country's compliance with trade agreements; to the Committee on Finance.

By Mr. AKAKA:

S. 270. A bill for the relief of Clayton Timothy Boyle and Clayton Louis Boyle, son and father; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. BOREN, Mr. DANFORTH, Mr. DASCHLE, and Mr. SIMON):

S. 271. A bill to amend the Internal Revenue Code of 1986 to allow a credit for interest paid on education loans; to the Committee on Finance.

By Mr. DECONCINI:

S. 272. A bill to extend the temporary suspension of import duties on cantaloupes; to the Committee on Finance.

By Mr. HOLLINGS:

S. 273. A bill to remove certain restrictions from a parcel of land owned by the city of North Charleston, South Carolina, in order to permit a land exchange, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DECONCINI:

S. 274. A bill to establish the Casa Malpais National Historic Park, in Springerville, Arizona, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 275. A bill to direct the Secretary of Agriculture to convey certain lands to the town of Taos, New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SARBANES:

S. 276. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve control of acid mine drainage, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself, Mr. MCCAIN, Mr. DECONCINI, Mr. DODD, and Ms. MOSELEY-BRAUN):

S. 277. A bill to authorize the establishment of the National African American Museum within the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. CAMPBELL, and Mr. SIMON):

S. 278. A bill to authorize the establishment of the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial in the State of South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LIEBERMAN (for himself and Mr. BRYAN):

S. 279. A bill to prohibit the receipt of advance fees by unregulated loan brokers; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. KASSEBAUM:

S.J. Res. 38. A joint resolution designating March 20, 1993, as "National Quilting Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY:

S. Res. 49. An original resolution authorizing expenditures by the Committee on Labor and Human Resources; from the Committee on Labor and Human Resources; to the Committee on Rules and Administration.

By Mr. RIEGLE:

S. Res. 50. An original resolution authorizing expenditures by the Committee on Bank-

ing, Housing, and Urban Affairs; from the Committee on Banking, Housing, and Urban Affairs; to the Committee on Rules and Administration.

By Mr. NUNN:

S. Res. 51. An original resolution authorizing expenditures by the Committee on Armed Services; from the Committee on Armed Services; to the Committee on Rules and Administration.

By Mr. INOUYE:

S. Res. 52. An original resolution authorizing expenditures by the Select Committee on Indian Affairs; from the Select Committee on Indian Affairs; to the Committee on Rules and Administration.

By Mr. BAUCUS:

S. Res. 53. An original resolution authorizing expenditures by the Committee on Environment and Public Works; from the Committee on Environment and Public Works; to the Committee on Rules and Administration.

By Mr. MCCAIN (for himself, Mr. DOLE, and Mr. LUGAR):

S. Res. 54. A resolution commending President Bush on conclusion of the START II Treaty; to the Committee on Foreign Relations.

By Mr. GLENN:

S. Res. 55. An original resolution authorizing expenditures by the Committee on Governmental Affairs; from the Committee on Governmental Affairs; to the Committee on Rules and Administration.

By Mr. MOYNIHAN:

S. Res. 56. An original resolution authorizing expenditures by the Committee on Finance; from the Committee on Finance; to the Committee on Rules and Administration.

By Mr. SASSER:

S. Res. 57. An original resolution authorizing expenditures by the Committee on the Budget; from the Committee on the Budget; to the Committee on Rules and Administration.

By Mr. BUMPERS:

S. Res. 58. An original resolution authorizing expenditures by the Committee on Small Business; from the Committee on Small Business; to the Committee on Rules and Administration.

By Mr. ROCKEFELLER:

S. Res. 59. An original resolution authorizing expenditures by the Committee on Veterans' Affairs; from the Committee on Veterans' Affairs; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN:

S. 267. A bill to amend the Fair Labor Standards Act of 1938 to exempt garment and certain other related employees from minimum wage and maximum hour requirements, and for other purposes; to the Committee on Governmental Affairs.

FAIR LABOR STANDARDS ACT MODEL GARMENTS EXEMPTION ACT OF 1993

Mr. COCHRAN. Mr. President, today I am introducing a bill to allow retail fabric stores to reinstate their model garment programs under the Fair Labor Standards Act.

The Department of Labor's definition of model garments as women's apparel under its rules on industrial homework has effectively eliminated the benefits of model garment programs for employees of retail fabric stores.

Prior to publication of those rules in November 1988 and the Department's adoption of its current enforcement policy, employees of fabric stores could participate in model garment programs by voluntarily sewing model garments at home for display in the stores.

Employees considered these programs to be an employee benefit, as the fabric, notions, and patterns used to construct the model garments were provided at no charge, and after the garment had been displayed in the store for a brief period of time, the employees were allowed to keep them.

Mr. President, the legislation I am introducing today reflects the Senate's previous action on this issue, as it incorporates the compromise language adopted by the Senate when it agreed to my model garment amendment to the fiscal year 1992 Labor, Health and Human Services appropriations bill.

I had hoped that the Senate's action would have brought a change in the Department of Labor's regulation of model garment programs, but that has not been the case. It now appears that employees of fabric stores will only regain the benefit of model garment programs if they are provided an exemption from the wage and hour provisions of the Fair Labor Standards Act.

Mr. President, the legislation I am introducing today will add employees who participate in model garment programs to the other categories of employees now exempted under certain conditions from the minimum wage and maximum hour requirements of the Fair Labor Standards Act.

This legislation will also protect employees from potential exploitation, as it includes the provisions of the compromise adopted by the Senate on September 12, 1991, when it agreed to a modification of my amendment on the model garment issue. Those provisions require that model garment programs are voluntary; materials are provided at no cost to employees; employees retain ownership of the garments; and employees determine that the fabric, style, and sizes of the model garments are appropriate for the employees' use.

Mr. President, the Senate has voted once, through the appropriations process, to correct this instance of excessive and burdensome Government regulation, but that action did not bring about the intended change in the Department of Labor's rules. It appears that an exemption under the Fair Labor Standards Act for these employees is required.

Mr. President, I urge my colleagues to support this legislation that will allow retail fabric stores to once again provide the benefits of model garment programs to their employees who may wish to voluntarily sew model display garments at home for their personal use.

I ask that a copy of the bill be printed at the appropriate place in the RECORD.

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

S. 267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FROM MINIMUM WAGE AND MAXIMUM HOUR REQUIREMENTS.

Section 13(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)) is amended—

(1) by striking the period at the end of paragraph (15) and inserting "; or; and

(2) by adding at the end the following new paragraph:

"(16) any employee who constructs or assembles, at any location, any garment or craft item intended to be displayed at premises that are used for retail sales of fabrics, patterns, notions or craft materials: *Provided* That—

"(A) the employee's work is voluntary;

"(B) the patterns, fabric, and notions are provided by the employers at no cost to the employees;

"(C) the employees retain ownership of the model garments after the display period; and

"(D) the model garments are in fabrics, styles and sizes determined by the employees to be appropriate for the employees' use.".

By Mr. BAUCUS (for himself, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. REID, Mr. CONRAD, and Mr. DANFORTH):

S. 268. A bill to extend the period during which the United States Trade Representative is required to identify trade liberalization priorities, and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. REID, Mr. LEVIN, and Mr. DANFORTH):

S. 269. A bill to amend the Trade Act of 1974 to provide that interested persons may request review by the Trade Representative of a foreign country's compliance with trade agreements; to the Committee on Finance.

INTERNATIONAL TRADE LEGISLATION

Mr. BAUCUS. Mr. President, I rise to introduce two critical pieces of international trade legislation.

The first revives the so-called super 301 provision of the 1988 Trade Act. The second—titled the Trade Agreements Compliance Act—establishes a new procedure to ensure that the United States enforces trade agreements.

Mr. President, the world has dramatically changed in the last few years. With the end of the cold war, our entire definition of national security must change.

National security must now be defined more in economic terms than military terms. The real threat to America is not the foreign invader from without, but economic erosion from within.

The trade balance is now a better measure of America's relative strength in the world than the arms balance. When national security is thought of in

these terms, international trade automatically comes to the forefront.

Most of our allies learned this lesson sometime ago. The best and brightest in Japan and Europe, don't go into the defense industry. They go into business, economic agencies, and trade negotiating corps. And when international trade disputes arise, Japan and Europe treat them with the same deadly seriousness and focus that we in this country give to military problems.

It is in this context, that I rise today to propose two pieces of legislation aimed at strengthening America's trade policy.

THE CLINTON TRADE POLICY

Some journalists have recently asked me why I would introduce strong trade legislation, at the beginning of the Clinton administration. Don't I trust President Clinton to implement a strong trade policy on his own, they ask.

The answer to that question is that I do trust the Clinton administration to adopt a strong trade policy. I trust it absolutely. President Clinton has made it clear that he will stand with American workers and American business to protect America's trade rights. I have absolute confidence in both President Clinton and his Trade Representative Mickey Kantor.

But passage of super 301 and TACA will send a strong message to the world that both the President and Congress will be focusing on opening markets for American exports. With these two tools in place, it will be clear that the United States will no longer allow itself to be the only level playing field in the world.

With American workers, exporters, and our trading partners anxiously awaiting a full articulation of Clinton trade policy, now is the time to put this trade legislation in place.

SUPER 301

Anyone who follows trade policy at all is no doubt familiar with super 301. Though it is much maligned overseas, it is really a very straightforward and simple provision.

Super 301 is aimed at countries which systematically resort to protectionism to exclude U.S. exports. Super 301 establishes an annual procedure under which the U.S. Trade Representative identifies those countries and initiates trade negotiations—under threat of retaliation—to eliminate those countries' trade barriers.

The legislation I am introducing today would extend super 301 for 5 years. It would also include a provision that passed the Senate previously to allow the Senate Finance Committee and the House Ways and Means Committee to suggest super 301 cases to the administration.

In its short 2-year tenure, super 301 opened markets for American supercomputers, satellites, forest products, agricultural products, and a variety of other products in Japan, Brazil, Korea, and Taiwan—to name only a few. It was unquestionably the most successful provision of the 1988 Trade Act.

In a recent study even the Institute for International Economics—hardly a hotbed of protectionist thinking—conceded that super 301 had succeeded.

Unfortunately, much remains to be done. Markets remain closed to American products in Asia, Europe, and South America. Korea, Japan, India, and other countries retain a web of trade barriers that block American exports.

In a recent study, the American Chamber of Commerce in Japan, a previous defender of Japanese trade policy, indicated that significant Japanese trade barriers remain in at least 36 sectors. The report lists 14 major Japanese trade barriers. I ask unanimous consent that a summary of the report appear in the RECORD following my remarks.

THE TRADE AGREEMENTS COMPLIANCE ACT

The second piece of legislation I am introducing is the Trade Agreements Compliance Act.

This legislation was included in last year's H.R. 11, which was vetoed. The provision focuses on requiring foreign compliance with trade agreements. After review, if violations are found the foreign nation involved come into compliance or suffer retaliation against that nation's exports to the United States.

The United States has historically invested thousands of hours and much political capital in negotiating trade agreements. But once the agreement is concluded, we tend to declare victory and walk away.

Unfortunately, concluding a trade agreement is only the first and often the easiest step. The real challenge is ensuring compliance and making the cash register ring for American exporters. Many of our trading partners, including Japan, Canada, and Korea, have cut corners or openly violated important trade agreements with the United States.

This must end. The United States must take a strong stand on trade agreement violations. We must make it clear to our trading partners that a deal is a deal.

Even today, we are on the brink of a potential major trade agreement violation by Japan. In 1991, the United States and Japan concluded a second semiconductor trade agreement. One of the most important provisions in that agreement is a commitment by Japan to ensure that the foreign share of the Japanese market reaches 20 percent by January 1993.

This commitment should be easy to meet. U.S. semiconductors are consistently industry leaders and dominate markets in the United States, Europe, and around the world. But in Japan they have been kept out by a web of trade barriers.

The final figures for the January market share won't be out until March. But the United States share of the Japanese market actually declined to 15.9 percent in the latest figures available. Apparently, protectionism is on the rise in the semiconductor sector.

This is exactly the kind of violation of a trade agreement that TACA is aimed at. The United States must be prepared to stand strong in this dispute.

CONCLUSION

In my opinion, U.S. trade policy should be simple. We should ask only for what is fair from our trading partners. And we should insist on fairness in their markets if they enjoy free and fair access to the U.S. market.

Most observers concede that the United States has the most open market of any major developed country in the world. That is not to say that the United States does not have trade barriers. But on the whole, the United States maintains fewer trade barriers than our trading partners and far less than Japan and Korea.

We can no longer tolerate this inequity. Our trading partners must open their markets to U.S. products if they expect access to ours.

The two pieces of legislation I am introducing enjoy wide support in Congress. In the past, both have been cosponsored by the majority of the members of the Senate Finance Committee. Super 301 was endorsed by President Clinton during the campaign. I expect these two bills to be part of the first piece of major trade legislation to pass this Congress.

I ask that the text of both bills be printed in the RECORD immediately following my statement.

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

S. 268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERIOD FOR IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES EXTENDED.

Section 310(a) of the Trade Act of 1974 (19 U.S.C. 2420(a)) is amended—

(1) by striking "By no later than the date that is 30 days after the date in calendar year 1989, and also the date in calendar year 1990, on which the report required under section 181(b) is submitted to the appropriate Congressional committees," and inserting "By no later than September 30 of each of the calendar years 1994 through 1997,",

(2) by striking "such report" in subparagraph (B) and inserting "the most recent report submitted under section 181(b)", and

(3) by adding at the end thereof the following new subsection:

"(e) PETITIONS BY CONGRESSIONAL COMMITTEES.—The Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives may file a petition under section 302(a) with respect to barriers and market distorting practices of a foreign country, if—

"(1) the Committee adopts a resolution that an investigation under this chapter

should be initiated with respect to barriers and market distorting practices of a foreign country, and

"(2) such Committee determines that the foreign country maintains a consistent pattern of import barriers or market distorting practices.".

S. 269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trade Agreement Compliance Act of 1993".

SEC. 2. FINDINGS AND PURPOSES

(a) FINDINGS.—The Congress finds that—

(1) the United States has entered into numerous trade agreements with foreign country trading partners;

(2) foreign country performance with respect to certain agreements has been less than contemplated, and in some cases rises to the level of noncompliance; and

(3) there is a need to provide a mechanism whereby interested parties can obtain a periodic review of the performance of a foreign country under a trade agreement.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure that foreign countries which have made commitments through agreements with the United States fully abide by those commitments;

(2) to obtain foreign country compliance with agreements with the United States through negotiation or, in the alternative, through unilateral action in cases in which the GATT dispute settlement procedures cannot be employed;

(3) to achieve a more open world trading system which provides mutually advantageous market opportunities for trade between the United States and foreign countries;

(4) to facilitate the opening of foreign country markets to exports of the United States and third countries by eliminating trade barriers and increasing the access of industry of the United States and third countries to such markets; and

(5) to reduce diversion of third country exports to the United States because of restricted market access in foreign countries.

SEC. 3. REVIEW OF TRADE AGREEMENTS.

(a) IN GENERAL.—Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) is amended by inserting after section 306, the following new section:

"SEC. 306A. REQUEST FOR REVIEW OF TRADE AGREEMENTS.

"(a) ANNUAL REVIEW OF TRADE AGREEMENTS.—

"(1)(A) At the written request of an interested person, the Trade Representative shall commence a review to determine whether a foreign country is in compliance with any trade agreement such country has with the United States.

"(B) An interested person may file a written request for review under paragraph (1) at any time after the date which is within 30 days after the anniversary of the effective date of such agreement, but not later than 90 days before the date of the expiration of such agreement.

"(C) A written request filed under this paragraph shall—

"(i) identify the person filing the request and the interest of that person which is affected by the noncompliance of a foreign country with a trade agreement with the United States;

"(ii) describe the rights of the United States being denied under such trade agreement; and

"(iii) include information reasonably available to the person regarding the failure of the foreign country to comply with such trade agreement.

"(2) Not later than 90 days after receipt of a request for review under paragraph (1), the Trade Representative shall determine whether any act, policy, or practice of the foreign country that is the subject of the review is in material noncompliance with the terms of such agreement.

"(3) In conducting a review under this subsection, the Trade Representative may, as the Trade Representative determined appropriate, consult with the Secretary of Commerce or the Secretary of Agriculture.

"(4)(A) For purposes of this subsection, the term 'interested person' means a person who has a significant economic interest that is affected by the failure of a foreign country to comply with a trade agreement.

"(B) For purposes of this subsection, the term 'trade agreement' means an agreement with the United States and is not intended to include multilateral trade agreements such as the General Agreement on Tariffs and Trade.

"(b) FACTORS TO BE TAKEN INTO ACCOUNT.—In making a determination under subsection (a)(2), the Trade Representative shall take into account, among other relevant factors—

"(1) achievement of the objectives of the agreement,

"(2) adherence to commitments given, and

"(3) any evidence of actual patterns of trade that do not reflect patterns of trade which would reasonably be anticipated to flow from the concessions or commitments of such country based on the international competitive position and export potential of a United States industry.

The Trade Representative may seek the advice of the United States International Trade Commission when considering these factors.

"(c) FURTHER ACTION.—

"(1) If, on the basis of the review carried out under subsection (a), the Trade Representative determines that a foreign country is in material noncompliance with an agreement within the meaning of subsection (a)(2), the Trade Representative shall determine what further action to take under section 301(a).

"(2) For purposes of section 301, any determination made under subsection (a) shall be treated as a determination made under section 304.

"(3) In determining what further action to take under paragraph (1), the Trade Representative shall take into account the criteria described in subsection (d) with respect to possible sanctions.

"(d) SANCTIONS.—In developing a list of possible sanctions to be imposed in the event a determination is made under subsection (a)(2), the Trade Representative shall seek to minimize any adverse impact on existing business relations or economic interests of United States persons, including consideration of taking action with respect to future products for which a significant volume of current trade does not exist.".

"(b) CONFORMING AMENDMENT.—The table of contents of chapter 1 of title III of the Trade Act of 1974 is amended by inserting after the item relating to section 306 the following new item:

"Sec. 306A. Request for review of trade agreements.".

SEC. 4. INTERNATIONAL OBLIGATIONS.

The amendments made by this Act shall not be construed to require actions inconsistent with the international obligations of the United States, including obligations under the General Agreement on Tariffs and Trade.

[From the New York Times, Jan. 26, 1993]

U.S. TRADE GROUP FINDS SECTORS IN JAPAN CLOSED

(By James Sterngold)

Tokyo, Jan. 25—In a report that encourages the Clinton Administration to adopt a more aggressive trade policy toward Japan, the American Chamber of Commerce in Japan today listed dozens of business sectors that it said remained partly closed to foreign companies, despite years of arduous negotiations.

The report also said the Japanese still used numerous practices that hobbled foreign concerns trying to crack this market.

In some past reports, the chamber, a trade body, has sounded more conciliatory, suggesting that Japan was not as closed to foreign businesses as some supposed. But today's study, the chamber's "white paper" on trade, was tougher, detailing a network of discrimination.

While describing the problems in each sector, the American Chamber of Commerce recommended that the Clinton Administration quickly pursue new negotiations with the Japanese to strip away trade barriers.

"Despite Japanese Government actions to liberalize and internationalize, years of protection and export-driven strategies have shaped an environment inherently unfavorable to foreign firms," said Richard J. Johannessen Jr., president of the chamber and president of the Asia-Pacific operations of the Rockwell International Corporation.

PLEAS TO CLINTON

Chamber officials said they planned to take their report to Washington and explain their difficulties to Clinton Administration officials, who are organizing a trade strategy.

The report, which was based on the experiences of the chamber's hundreds of member companies, said 34 business sectors remained at least partly closed to foreign concerns, even though some had been the subject of trade negotiations in the past. The sectors included agricultural products, automobiles, computers, computer software, financial services, glass and pharmaceuticals.

The report explained how the Government's inclination to regulate every aspect of business life in Japan could impede a newcomer. For example, a dog food company could be prohibited from offering a "buy one, get one free" promotion or from hiring Japanese lawyers.

AMERICAN CHAMBER OF COMMERCE IN JAPAN
1993 WHITE PAPER

INTRODUCTION

Overview and purpose

The American Chamber of Commerce in Japan (ACCJ) issues its 1993 United States-Japan Trade White Paper at a time of remarkable change in the world economy and trading system. The Japanese and American economies are struggling to recover, while restructuring to adapt to a new economic reality. In these times, a commitment to expanding trade is essential to ensuring continued growth and prosperity for both countries. This report highlights—from a U.S. business perspective—those areas of the Jap-

anese market where a realignment of business practices, policies, and standards is still required to ensure open access.

This Trade White Paper was prepared under the auspices of the Trade Expansion Committee of the ACCJ, combining the contributions of numerous other Committees and Subcommittees, and individual companies. Its purpose is to reflect the views of Americans doing business in Japan and to document the current business situation, examine progress, and focus on the remaining unresolved product and service issues. The ACCJ is uniquely suited to report on the policy issues which affect the American business community. In existence since 1948, the ACCJ totals more than 700 firms and 2000 members and associates.

The ACCJ has issued a series of Trade White Papers dating back to the 1970s, and the 1993 United States-Japan Trade White Paper updates the most recent one, published in 1990. Building on this foundation, the 1993 Trade White Paper is not intended to be an exhaustive treatment of the issues. Rather, it focuses on those issues that people doing business in Japan have indicated continue to impede access, and to which attention still needs to be paid.

In many areas, the ACCJ notes that substantial progress has been made, through the efforts of the Japanese and American Governments and private companies, to gain access to Japan's vast and sophisticated marketplace. The need persists, however, to maintain attention on areas identified in this study to continue this progress.

The ACCJ and its member-companies have worked closely with government authorities, expressing necessary concerns and providing vital information. This 1993 Trade White Paper is only one of the many forms of information prepared by the ACCJ to be used by government officials and business persons on both sides of the Pacific to assist in the resolution of trade disputes and help broaden the access of American goods and services to the Japanese market. It also should serve to provide a better understanding of the challenges confronting U.S. business in Japan.

Earlier White Papers referred to a series of actions taken by both governments to resolve trade problems. These include negotiations and import and export promotion activities. Both continue today.

The bilateral negotiating process has become an essential element in the U.S.-Japan relationship. The MOSS (Market-Oriented, Sector-Selective) and other bilateral negotiations—including the sub-cabinet level Trade Committee meetings between the two governments and the Structural Impediments Initiative (SII) talks—have provided important mechanisms for dealing with issues of concern to American business in a systematic manner. Successful government-to-government negotiations, however, do not necessarily mean all problems have been resolved.

The Government of Japan has in the recent past issued a series of "market-opening packages," designed to increase imports of manufactured and agricultural products into Japan. Agencies such as JETRO (Japan External Trade Organization) and MIPRO (Manufactured Imports Promotion Organization) have augmented their promotional efforts to help increase imports. More recently, Japanese Government ministries have begun implementation of the "Law on Extraordinary Measures for the Promotion of Imports and the Facilitation of Foreign Direct Investment."

The United States Government has, for its part, initiated several export-promotion measures, the most notable of which is the "Japan Corporate Program." In addition, the United States & Foreign Commercial Service (US&FCS), through the U.S. Embassy in Tokyo and Consulates throughout Japan, provides excellent support to American companies. However, the US&FCS needs to receive additional budgetary resources in order to expand its ability to support U.S. business in Japan.

The ultimate success of government initiatives, often depends on the efforts of private business. The Japanese private sector, in particular, also has a responsibility to take bigger and faster steps to improve market access. Without the actions and cooperation of Japanese companies, true penetration of the market cannot take place.

The most important factor in ensuring the success of American companies in Japan, however, is the constant efforts of the companies themselves. More than anything, this document is the product of their experiences, reflecting their day-to-day travails, interaction with the Japanese private and public sectors, and commitment to succeeding in a challenging environment.

The resolution of trade issues between the United States and Japan is not a static process. The issues covered in this report are in various stages of resolution and it is possible that some may have been resolved by the time of publication.

This in no way detracts from the main objective of this work—to draw attention to current issues in U.S.-Japan trade relations, in order to heighten their visibility and speed their resolution. A great deal of time and effort spent in research, discussion and consensus building have resulted in what the ACCJ believes to be an accurate and balanced assessment of the trade and investment dimension of its most important and profitable relationship.

Recurrent Issues

American business people in Japan face many diverse obstacles of varying levels of difficulty. While progress has been made over the years in opening the Japanese market, much still needs to be done to ensure access for competitive American products.

The ACCJ Trade Expansion Committee identified 34 areas of particular concern. These include product and service sectors, as well as "generic" problems (distribution, government procurement, intellectual property, investment and taxation) that cut across these lines. In its evaluation of these areas of concern, the ACCJ has identified several recurrent issues which represent major obstacles to fair access to the Japanese market and illustrate the overall business and policy environment in Japan in which American companies operate every day. These issues and the examples mentioned are drawn from the "Analysis of Issues by Sector" part of this report. They are included in this section as representative of some of the difficulties facing U.S. firms, and should not be considered a comprehensive listing of all of the issues brought forth in the analyses, nor of all the obstacles to doing business in Japan. The primary recurrent issues are as follows:

Lack of access due to keiretsu and other exclusionary business relationships has been cited as a continued hindrance to full development of commercial activities for foreign firms in certain sectors. These arrangements have affected the ability of certain American industries, such as the automotive, flat glass, insurance, and semiconductor industries, to take full advantage of market opportunities in Japan, even when the product is highly competitive.

Failure to enforce existing anti-monopoly (anti-trust) laws and regulations and to impose sufficient penalties for violations of the law is another frequent complaint. Such laws, properly implemented and enforced, can be effective tools in reducing barriers. Monopolistic practices persist in the paper, flat glass and soda ash industries, for example. Lack of vigorous implementation of the Anti-Monopoly Law and ambiguous explanations by the Japan Fair Trade Commission (JFTC) for pressing or not pressing certain cases of anti-competitive behavior also inhibit business. This selective application of Anti-Monopoly statutes is often seen as preventing full access to Japan's complex distribution system.

Incompatibility of many Japanese standards, regulations, and testing practices with internationally recognized ones, coupled with reluctance to recognize them as applicable in Japan, impacts a variety of sectors. This disparity is particularly evident when compared to the less-restrictive and more internationally compatible standards and certification procedures applied in the United States and Japan's other major trading partners, from which Japanese companies themselves benefit. Sectors such as annual health products (residue tests), automobiles (homologation), chemicals (health and safety standards), and financial services (accounting standards) provide examples of Japan's reluctance and slowness to adopt internationally "harmonized" standards and procedures. The impact of such "unique-to-Japan" standards is to prevent easier, less expansive, importation of products otherwise competitive in their home or other markets. In effect, this situation constitutes an "invisible tariff" by requiring foreign companies to incur additional costs to meet these Japan-specific standards.

Tariffs and quotas are maintained on a number of products, for which protection is no longer justified. Although Japan has one of the lowest average industrial tariff rates in the world, duties on imports that could be more competitive in Japan continue to exist. Duties on certain agricultural products (beef), chemicals (polyethylene and polypropylene), paper products, and textile goods such as carpets are cases in point. Soda ash and some agricultural products (corn) are still subject to quotas.

Excessive regulation continues to impede the entry of foreign firms and the success of those already here. While deregulation has proceeded to some extent in recent years, many archaic and arbitrary regulations and guidelines remain in effect, serving as impediments to trade. Many building codes preclude the use of certain wood products. Radio communications and telecommunications services and equipment continue to be highly regulated sectors. These regulations keep prices high and delay access for competitive and high-quality American goods and services. Such over-regulation can sometimes be a means to preserve the domination of domestic firms over foreign ones. Air transport services suffer from regulations which control the prices they charge and the services they offer. In some cases, all that is required is simplification and clarification of regulations (cosmetics), or modification of guidelines for existing "liberalizing" laws (telecommunications services carriers).

Government procurement of U.S. products remains limited. In spite of various agreements to increase opportunities for U.S. firms in the government market in Japan, the share of that market for competitive

products such as computers, supercomputers and software continues to be limited. In addition, application of the GATT Procurement Code to a large number of Japanese Government agencies has not resulted in significantly increased opportunities for U.S. suppliers. In part, this is due to the tendency to procure from associations that have ties to the agencies involved.

Unwillingness of Japanese Government authorities and private industry to facilitate or increase the purchase of U.S. products, in order to preserve existing commercial and other relationships, continues. "Buy Japanese" attitudes and practices persist in such sectors as construction and engineering, radio communications (wireless telecommunications equipment), and semiconductors, for which major "market-opening" or purchasing agreements exist. In some other sectors, foreign companies, by virtue of being foreign, are not given the same rights and privileges as Japanese companies. This is true for foreign law firms and insurance companies. Additional and more intensive efforts need to be made by the Japanese private sector to promote purchases of competitive American goods and services in these and other sectors, while Japanese Government authorities will vigorously need to monitor as well as encourage the acquisition of such goods and services by private companies, quasi-governmental entities, and government agencies.

Lack of transparency in the elaboration of rules and regulations by Japanese Government agencies has prevented many American firms from receiving information needed to compete in certain sectors, and to influence the regulatory environment in which they operate. Failure fully to provide award data and more detailed information related to government procurement tenders has limited the chances of American firms in that market. Transparency remains inadequate in the decision-making process for construction projects, the setting of regulations for solid wood products use, and the procedures for date-labeling of certain food products.

Actions on the part of the Japanese Government and industry to preserve advantages for domestic companies through regulations and practices designed to prevent "disruptive competition" and protect the status quo continue. In some sectors, there are indications of efforts to preserve the existing domination of local firms over potential foreign competitors through a variety of procedural and excessively bureaucratic practices. Foreign air transport companies face difficult and time-consuming obstacles in acquiring airport landing rights and brokerage licenses. Medical equipment companies have experienced both slowing of approvals of new medical technology in which the U.S. has a leadership position, and funding of Japanese products directly competing with U.S. products. Imported food products face rigid barriers such as unrealistically short delivery deadlines and onerous date-labeling requirements, in addition to being required to meet food safety standards different from those used in other countries. Restrictions on premium pricing and sales promotions handicap foreign and new-to-market companies, such as travel and tourism services agencies and processed food importers.

Protection of intellectual property rights is a pervasive problem for American firms in Japan. Japanese patent protection rules and the length of patent pendency compared to other nations diminish the competitive advantage of certain American products. Protection of patent information is an expressed concern of several sectors including the automotive, biotechnology, and textile sectors.

Some large Japanese companies control the importation and distribution of certain commodities. These cartel-like practices impede fair and direct access to the market. Facing these problems are companies exporting commodities to Japan such as agricultural products (wheat and barley), chemicals, flat glass, paper and wood products, and soda ash. These companies encounter distribution channels controlled by Japanese companies wishing to maintain their market dominance.

Problems of classification or "definition of terms" occasionally occur, and result in unfair treatment of foreign firms. Ways of defining terms in certain sectors such as computers ("foreign computer manufacturer"), telecommunications (Type I/Type II telecommunications carriers), insurance (life, non-life, "third area"), and construction (public, private, "third-sector" projects) constitute additional and unnecessary hurdles for foreign companies. How such terms are interpreted or defined often determines whether or not a particular agreement or law will be implemented. For example, what equity ownership constitutes an FCM versus a JCM (Japanese computer manufacturer) can be used to demonstrate whether adequate market penetration by "foreign firms" has been achieved.

High-profile and visible concessions and "break-throughs" in certain sectors often do not result in—or signify—the type of systemic change that is essential for full foreign firm entry to take place. In spite of much-publicized announcements of Japanese acquiescence to entry of such products as semiconductors, supercomputers, and construction services, companies providing such goods and services still seem to come up against an "inner wall" of resistance in the Japanese private sector to procuring foreign products.

Closed-bidding practices remain in certain product and service sectors where U.S. companies have a competitive advantage. Such activities exist not only in construction and government procurement, but also in auto parts and textiles. These arrangements conflict with publicly stated claims of a fair and open competitive environment.

Statistical Highlights

The most visible measure of trade relations between the United States and Japan is the merchandise trade balance between the two countries. The U.S.-Japan trade imbalance peaked in 1987 at over $56.1 billion. In 1990, it had dropped to a level slightly over $41.1 billion. However, subsequent years have shown an increase. In 1991, it rose to just over $43.4 billion, and indications are that the 1992 trade imbalance will again increase over the 1991 level. Although U.S. exports to Japan have been steadily increasing, since the mid-1980s, the continued imbalance and near-term trends remain "politically" unacceptable, economically disruptive, and a reflection of continued barriers to entry for U.S. products in Japan.

The composition of trade between Japan and the United States shows that there are some sectors in which the United States enjoys a surplus. These include aircraft, chemicals, coal, food and agriculture, pharmaceuticals, textiles, and wood products.

Unfortunately, the level of exports in these sectors is dwarfed by Japanese export dominance in the following sectors: automobiles, automotive components, computers and telecommunications equipment.

It is important to note, however, that parity in every sector is neither desirable nor appropriate. At the same time, an overall balance does not necessarily depict open access and a fair opportunity to compete. More important than statistical balances is the need for open access so that American firms are able to compete on a sector-by-sector basis. Achieving market access is the objective of the American business community in Japan as reflected in this 1993 White Paper.

Trade turnover in selected sectors provides some indication of the composition of U.S.-Japan trade.

UNITED STATES-JAPAN TRADE FLOWS[1]

[United States 1991, millions of U.S. dollars]

	United States exports (to Japan)	United States imports (from Japan)
Food and animals (0)	7,434	266
Motor cars & other motor vehicles (781)	715	20,673
Parts & accessories of motor vehicles (784)	489	5,007
Chemicals and related products (5)	5,098	2,705
Coal (321	531	
Automatic data processing machines (752)	2,032	6,840
Wood in the rough (247)	1,388	
Paper and paper board (641)	474	
Telecommunications equipment & parts (764)	1,020	5,267
Cotton textile fibers (263)	483	
Aircraft & assoc. equip.: spacecraft vehicles (792)	3,143	552
Thermionic, cold cathode, photocathode valves (784)	1,564	4,167
Parts for office machines & auto data processing machines (759)	1,661	3,520

[1]Data based on SITC Rev. 3 commodity codes (U.S. Department of Commerce).

SUMMARY OF TRADE NEGOTIATIONS

For over a decade now, Japan and the United States have been engaged in a series of negotiations designed to address the overall imbalance in their mutual trade and improve access for competitive U.S. products and services. However as this Trade White Paper illustrates, the existence of negotiations and the conclusion of agreements does not necessarily mean that problems no longer exist. U.S.-Japan trade negotiations have focused on both the sector-specific and the general.

In the mid-to-late 1980s, the focus was on sector-specific issues, as illustrated by the MOSS process (pharmaceutical and medical devices, telecommunications, forestry products, electronics, auto parts). In addition, negotiations pursuant to the "Super 301" provision of the Omnibus Trade and Competitiveness Act of 1988 centered on supercomputers, wood products, and satellites. Other talks were initiated and agreements reached in the areas of semiconductors and construction. Desire to achieve some tangible and visible results led to this focus on key sectors of contention.

As Japan and the United States adapt to an increasingly global marketplace, it is important to reemphasize the interdependence of the two economies. More than any other nation, Japan has benefited from free and open trade and thereby achieved remarkable economic growth. While Japanese companies have enjoyed relatively free access to the American market, the Japanese economy remains under-penetrated by foreign firms. This situation is partly due to an economic development policy that protected and promoted domestic industries. Recently, however, both Japanese business and government have recognized that new policies and practices are necessary to ensure Japan's full entry into the global economy.

While this Trade White paper focuses on remaining barriers to foreign firms in Japan, the ACCJ also recognizes the continued ef-

forts by Japan to liberalize its economy. Many tariffs and other barriers have been reduced or eliminated in recent years. Efforts to promote imports by various government agencies are to be commended. However, years of protection of the domestic market, coupled with export-driven strategies, have shaped a business environment inherently unfavorable to foreign firms. For this reason, continued and aggressive actions by the Japanese Government, Japanese trade associations, and Japanese companies are needed to effect necessary changes in business policies and practices to make them more transparent and consistent with those of other industrialized countries. The Japanese private sector should work more forcefully to provide more opportunities to foreign firms entering the market.

At the same time, U.S. firms must be prepared and committed to take advantage of opportunities in the Japanese market. It is only through their continued presence and perseverance that the potential provided by market-opening initiatives can fully be realized.

In this regard, it must be noted that direct investment is essential to making a company competitive in Japan. Direct investment provides a framework within which U.S. companies can secure market position, improve their knowledge of the business environment, and increase trade.

Japan's trade surplus has been a source of friction with its trading partners. Ensuring better access to the large and lucrative Japanese market is a constructive way to reduce this friction, and ultimately in Japan's best interest. To this end, this report addresses specific issues inhibiting market access by American firms from a wide range of industries in the hope that increased awareness will bring about their timely elimination.

While pressing for resolution of the issues outlined in this document, the ACCJ will continue to urge the United States Government—both its legislative and executive branches—to refrain from enacting protectionist measures.

The ACCJ is confident that the commitment and well-intentioned efforts of its member-companies, working with U.S. and Japanese business leaders and government officials, can achieve mutually beneficial agreements to improve the ability of foreign firms to do business in Japan. No lesser goal is in the interest of either the United States or Japan.

By Mr. GRASSLEY (for himself, Mr. BOREN, Mr. DANFORTH, Mr. DASCHLE, and Mr. SIMON):

S. 271. A bill to amend the Internal Revenue Code of 1986 to allow a credit for interest paid on education loans; to the Committee on Finance.

HIGHER EDUCATION TAX BENEFITS ACT OF 1993

• Mr. GRASSLEY. Mr. President, I am being joined today by Senator BOREN and others in reintroducing legislation to restore tax benefits for interest paid on student loans.

Today, there is no greater issue of concern to the American people than the economic problems our Nation is facing. As we look into ways to improve our economy, we have to keep in mind the importance of addressing our Nation's long-term needs by including a restoration of tax benefits for higher education.

We all know that under the Tax Reform Act of 1986, the consumer interest deduction was phased out after the 1990 tax year. Unfortunately, educational expenses were lumped together with consumer interest and the deduction for student loan interest was also terminated. By taking this action, Congress effectively imposed an additional tax on individuals who are attempting to better themselves or their families through higher education.

Congress justified repealing the interest deduction on the grounds that it was a significant disincentive to saving. However, unlike loans for most other personal items, student loans have become a necessity for many students and their families who are unable to afford the rising costs of an education.

In addition, consumer interest, up to a limit, remains deductible if the loan is secured by a taxpayer's residence. Even if this home equity loan is used for educational expenses, the interest is deductible. Consequently, current law discriminates against middle and lower income taxpayers who are not fortunate enough to own a home and borrow on the home's equity.

With this in mind, I have introduced legislation since 1987 to restore the interest deduction on student loans. Working together, Senator BOREN and I put together legislation last year that would have provided tax benefits for higher education where taxpayers could choose between a tax credit or deduction, depending on their needs. We were successful in getting a version of our legislation included as part of the Senate version of H.R. 4210, which passed the Congress. However, although President Bush supported our legislation, he vetoed H.R. 4210. So, we're back again this year, and hopefully President Clinton will support our cause.

Under our legislation, both itemizers and nonitemizers will be eligible for benefits. In the past, only itemizers were able to qualify for a benefit, so many more people will be helped under our bill. In an effort to bring down the cost, the credit or deduction will be limited to 4 years of a loan's payback term. This is a period when interest payments are the greatest and taxpayers are less able to afford the cost of the loan.

Mr. President, the current law precluding interest deductions or credits for higher education is neither fair nor productive, and it's time to make an adjustment. We all agree that education is a national investment which will be a determining factor in the future of America. A well-educated work force is vitally important if we are to compete effectively in the international marketplace. Restoring tax benefits for interest paid on student loans is an expression of the value we place on education and its role in maintaining the position of the United States as the leader of our post-cold-war world.

I urge my colleagues to join me and the cosponsors of this legislation once again in supporting the education and future of America by adjusting the Tax Code to provide assistance to Americans for reasonable educational expenses.

I ask unanimous consent that the bill be printed following my remarks.

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

S. 271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. INTEREST ON EDUCATION LOANS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) MAXIMUM CREDIT.—The credit allowed by subsection (a) for the taxable year shall not exceed $300.

"(c) LIMITATION ON TAXPAYERS ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(d) LIMIT ON PERIOD CREDIT ALLOWED.—

"(1) TAXPAYER AND TAXPAYER'S SPOUSE.—Except as provided in paragraph (2), a credit shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 48 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any land and all refinancings of such loan shall be treated as 1 loan.

"(2) DEPENDENT.—If the qualified education loan was used to pay education expenses of an individual other than the taxpayer or the taxpayer's spouse, a credit shall be allowed under this section for any taxable year with respect to such loan only if—

"(A) a deduction under section 151 with respect to such individual is allowed to the taxpayer for such taxable year, and

"(B) such individual is at least a half-time student with respect to such taxable year.

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

"(A) which are incurred on behalf of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer,

"(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualified as a qualified education loan. The term 'qualified

education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the day before the date of the enactment of this Act) of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer at an eligible educational institution. For purposes of the preceding sentence, the term 'eligible educational institution' has the same meaning given such term by section 135(c)(3), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

"(3) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

"(4) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

"(f) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFITS.—No credit shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

"(2) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703."

(b) OPTIONAL DEDUCTION FOR INTEREST ON EDUCATION LOANS.—Paragraph (2) of section 163(h) of the Internal Revenue Code of 1986 (defining personal interest) is amended by striking "and" at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

"(E) any interest paid on a qualified education loan (as defined in section 23(e)) during the period described in section 23(d), unless a credit or deduction is taken with respect to such interest under any other provisions of this chapter, and".

(c) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Interest on education loans."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any qualified education loan (as defined in section 23(e) of the Internal Revenue Code of 1986, as added by this section) incurred on, before, or after July 1, 1993, but only with respect to any loan interest payment due after June 30, 1993, and before the termination of the period described in section 23(d)(1) of such Code.

Mr. BOREN. Mr. President, I am pleased to join with my colleague, Mr. GRASSLEY, and others in introducing again our bill that would allow taxpayers the ability to elect either a deduction or a tax credit for the interest paid on loans used to finance the costs of higher education. I think this legislation is important because it represents real relief for middle-income Americans and because it encourages investment in the most important resource of our country—an educated work force.

The new administration is committed to providing economic relief to our Nation's middle-income families; we are now searching for a way to provide meaningful relief within tight budgetary constraints. One of the greatest struggles facing middle-income families is the skyrocketing cost of providing a college education for their children. The very wealthy have little trouble finding the money to educate their children; on the other hand, many scholarships and grants are available only for the poor. Those in the middle, however, earn just enough so that their children cannot qualify for benefits; yet they don't earn enough to afford to send their children to college.

The statistics reveal the dilemma faced by middle-income families with teenaged children. While middle-income children make up three-fourths of the college-age population, they receive only about 4 percent of student aid and scholarships. One reason for this absence of grants and scholarships is that fewer are available in these times of shrinking Government resources. Loans have dramatically increased from 39 percent of all Federal aid 20 years ago to 65 percent in 1990.

Middle-income Americans have no choice but to take out large educational loans. Although the average cost of going to college ranges between $6,000 and $22,000 per year, the average middle-income family has only about $60,000 in net worth, most of it in home equities. This reality has led to high indebtedness for many students and their families. Average graduating debt for undergraduates at public 4-year programs is over $6,500, and over $9,500 at private 4-year programs. Average graduating debt for medical and dental students is over $50,000, and debt of over $100,000 for students graduating from professional schools are not unusual.

This statistical truth was forcefully brought home to me last year during the testimony of a middle-income mother of college-age sons before the Finance Committee. She spoke of the painful reality her family faced when they confronted the financial burden of sending her oldest son to university. They could not qualify for need-based scholarships or grants. If they had not taken out substantial loans and the mother had not returned to work, they would have been forced to sell their home to pay for higher education at an institution chosen in part because of its lower tuition.

This is not the story of only one mother, one family. It is the story of middle-income parents in every part of this country. Moreover, the enormous debtload carried by graduating students continues to affect their decisions even after they leave school. Many who face substantial interest payments may be discouraged from pursuing additional degrees; others feel they cannot consider careers in public service, teaching, or research because these jobs, while important to our society and rewarding, do not command sufficiently high salaries.

Mr. President, this is more than an issue of short-term relief for the middle-income taxpayer. A highly educated work force is crucial to this country's economic growth and its ability to compete in the international marketplace. We simply cannot afford to deny a generation of middle-income Americans the opportunity to contribute to this country's future, equipped with the best education available.

The bill that we introduce today addresses these problems. It offers real middle-income relief at an affordable price tag; the Joint Committee on Taxation estimated last year that similar legislation would result in a revenue loss of only $800 million over 5 years. The relief is limited to the first 4 years of loan repayment because this is the period in a student's life when earnings are low and interest makes up a greater portion of loan repayment. Moverover, by providing the option of a tax credit, the relief is available for taxpayers who do not itemize.

A similar student loan interest provision was included in H.R. 4210, the comprehensive middle-income tax relief bill that was vetoed last year. It is my hope that the provision will be enacted this year as part of the new administration's middle-income relief and economic growth package. No proposal for either middle-income tax relief or economic stimulation is complete unless it contains some provision to lessen the tremendous burden on financing higher education for middle-income Americans. I look forward to working with the administration and my colleagues in the Congress to enact this legislation.•

By Mr. DECONCINI:

S. 272. A bill to extend the temporary suspension of import duties on cantaloupes; to the Committee on Finance.

CANTALOUPE DUTY ACT OF 1993

• Mr. DECONCINI. Mr. President, today I am reintroducing legislation to extend the temporary suspension of import duties on cantaloupes during the winter months when they are unavailable from domestic sources. This legislation is identical to that recently introduced by Chairman DE LA GARZA of the House Agriculture Committee.

During the warmer months, cantaloupes are grown widely in the United States. By October and November, however, availability narrows and only small shipments are available to U.S. consumers from Arizona, Texas, California, and Georgia. Between the winter months of December through April there is no commercial production of cantaloupes in the United States. Even the temperate climate of Arizona is not

warm enough to grow cantaloupes during that time. Therefore, the American consumer must turn to foreign sources.

Consumers today demand a variety of fresh fruits and vegetables throughout the year. Suspending the duty on cantaloupes in the winter months not only has no adverse affect on domestic agriculture, but positively aids American farmers. It is not beneficial to domestic producers to have consumers associate fruits and vegetables to various times of the year as sales do not reach their peak until the height of the season. Providing nondomestic supplies, so that fruits and vegetables are available throughout the year, enables a smooth transition to the domestic supply after the winter season.

The major winter producers of cantaloupes include Mexico, Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, and Panama. While Arizona, Texas, and California are the major producers of cantaloupes in the summer, Mexico is a major supplier in the winter. Much of the cantaloupes from Mexico are shipped into the United States through Arizona and Texas.

The duty suspension achieved by this bill would not be new. Both Chairman DE LA GARZA's bill and my own would extend for 2 years the duty suspension which expired on December 31, 1992. The widespread benefits of the duty suspension would go to shippers, distributors, truck drivers and food store workers, and to American consumers who will be assured reasonably-priced cantaloupes during the winter months.●

By Mr. DECONCINI:

S. 274. A bill to establish the Casa Malpais National Historic Park, in Springerville, AZ, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL HISTORICAL PARK LEGISLATION

● Mr. DECONCINI. Mr. President, today I am reintroducing legislation which will establish the Casa Malpais National Historical Park in Springerville, AZ. This legislation is critical to properly protected, interpret, and open to the public the Casa Malpais archeological ruins. I am reintroducing this legislation, at the beginning of this Congress, so that it can be passed in an expeditious manner.

Mr. President, the Casa Malpais ruins are the largest and most complex ancient Mogollon communities in the United States. The site contains a large masonry pueblo, a great kiva complex, several masonry stairways, a prehistoric trail, numerous isolated rooms, catacombs, sacred chambers, and various rock art panels. The ruins were once occupied by the Mogollon tribes sometime between A.D. 1250 and 1400.

The town of Springerville along with the Zuni and Hopi Tribes have done an exceptional job of preserving the site for more than a year. Even with limited funding and facilities, more than 30,000 visitors have come to see the remains of this ancient civilization. With the site designated as a National Historical Park, it is estimated that the number of visitors could grow to more than 90,000 in each of the next 5 years.

It is this Senator's opinion that Casa Malpais is truly a national treasure and deserves preservation. This archeological site represents a unique and rare cultural resource of unusual interest to the general public and is of substantial scientific significance.

Under my legislation, the Casa Malpais would be included in the National Park System and be named "The Casa Malpais National Historic Park." The bill would establish an advisory board appointed to oversee the planning and management of the Park. Members of the advisory board would include members of the Hopi and Zuni Tribes, members of the local community, the archeological community, and Park Service personnel. My legislation provides for a significant amount of local control over the management of the park. I have done this because of local efforts thus far to preserve and interpret the Casa Malpais site.

The Casa Malpais site has great potential. I am pleased to be able to offer my colleagues the opportunity and ability to be a part of a project that will mature into a world-class historical interpretive site upon passage of this legislation. I ask that my colleagues join me in supporting this worthy endeavor.

I ask unanimous consent that the bill as well as a letter that I have received from the mayor of Springerville appear in the RECORD at this point.

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

S. 274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND CONGRESSIONAL FINDINGS.

(a) This Act may be cited as the "Casa Malpais National Historical Park Establishment Act of 1993".

(b) The Congress finds that—

(1) the Casa Malpais is historically and culturally significant to the State of Arizona, the Town of Springerville and the Nation;

(2) the Native American population in Arizona and New Mexico has shown strong and sincere interest in the preservation and interpretation of their heritage through the protection of the Casa Malpais;

(3) the Town of Springerville has played a significant role in the preservation of the cultural resources of the Casa Malpais through a program of interpretation and preservation of the landmark;

(4) the Casa Malpais National Historic Landmark was occupied by one of the largest and most sophisticated Mogollon communities in the United States;

(5) the landmark includes a 58-room masonry pueblo, including stairways, Great Kiva complex, and fortification walls, a prehistoric trail, and catacomb chambers where the deceased were placed; and

(6) the Casa Malpais was designated as a national historic landmark by the Secretary of the Interior in 1957.

SEC. 2. ESTABLISHMENT OF CASA MALPAIS NATIONAL HISTORICAL PARK.

(a) In order to preserve, for the benefit and enjoyment of present and future generations, that area in Arizona containing the nationally significant Casa Malpais, and other significant natural and cultural resources, there is hereby established the Casa Malpais National Historical Park (hereinafter in this Act referred to as the "park") as a unit of the National Park System. The park shall consist of approximately 35 acres, a map of which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and in the office of the mayor of the Town of Springerville, Arizona.

(b) The park shall be administered by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") and the Town of Springerville, Arizona (hereinafter in this Act referred to as the "Town"), in accordance with section 3.

(c) Within 6 months after the date of enactment of this Act, the Secretary shall file a legal description of the park with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such legal description shall have the same force and legal description as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, in the State of Airzona, and in the office of the mayor of the Town of Springerville, Arizona: Provided, That the Secretary may from time to time, after completion of the general management plan referred to in section 108(a), may make minor adjustments to the park boundary by publication of a revised map or other boundary description in the Federal Register.

SEC. 3. ADMINISTRATION AND MANAGEMENT OF THE PARK.

(a)(1) To achieve the purpose of this Act, the Secretary, in cooperation with the Town, shall formulate a comprehensive plan for the protection, preservation, interpretation, development and maintenance of the site.

(2) Within eighteen months following the date of enactment of this section, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives.

(b) The Secretary may, pursuant to cooperative agreement—

(1) provide technical assistance to the Town or unit of local government in the management, protection, and interpretation of the site; and

(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to the Town or local unit of government for the annual costs of operation and maintenance, including but not limited to, salaries of personnel and the protection, preservation, and rehabilitation of the site.

(c) The Secretary is authorized to enter into cooperative agreements with either the Town under which the Secretary may manage and interpret any lands owned by Town and the state of Arizona, respectively, within the boundaries of the Park.

(d) In order to encourage a unified and cost effective interpretive program of the natural, cultural and recreational resources of the Casa Malpais and its environs, the Secretary is authorized to enter into cooperative agreements with other Federal, State, and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of these resources. Such cooperative agreements may also provide for financial and technical assistance for the planning and implementation of interpretive programs and minimal development related to these programs.

SEC. 4. LAND USE PLANNING.

The Secretary may participate in land use planning conducted by appropriate local authorities for lands adjacent to the park and may provide technical assistance to such authorities and affected landowners for such planning.

SEC. 5. EXISTING TRANSMISSION OR DISTRIBUTION FACILITIES.

Nothing in this Act shall be construed as authorizing or requiring revocation of any interest or easement for existing transmission or distribution facilities or prohibiting the operation and maintenance of such facilities within or adjacent to the park boundary.

SEC. 6. GENERAL MANAGEMENT PLAN.

(a) Within 3 years from the date of enactment of this Act, the Secretary, in cooperation with the Town and the State, shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, a general management plan for the park consistent with the purposes of this Act, including, but not limited to—

(1) a statement of the number of visitors and types of public use within the park which can be accommodated in accordance with the protection and preservation of its resources;

(2) a resource protection program;

(3) a general interpretive program;

(4) a general development plan for the park, including proposals for a visitor's center and recreation facilities, and the estimated cost thereof; and

(b) The general management plan shall be prepared in consultation with the Casa Malpais National Historical Park Advisory Commission established pursuant to section 7, appropriate Indian tribes and their civil officials, the Arizona Historical Preservation Office, and other interested parties.

SEC. 7. CASA MALPAIS NATIONAL HISTORICAL PARK ADVISORY COMMISSION.

(a) There is hereby established the Casa Malpais National Historical Park Advisory Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall be composed of members appointed by the Secretary on the recommendation of the mayor of Springerville for terms of 5 years as follows:

(1) one member, who shall have professional expertise in history and/or archeology, appointed from recommendations submitted by the Governor of the State of Arizona;

(2) one member, who shall have professional expertise in history, appointed from recommendations submitted by the mayor of the Town of Springerville, Arizona;

(3) one member, who shall have professional expertise in Indian history or ceremonial activities, appointed from recommendations submitted by the Inter-Tribal Council of Arizona;

(4) one member, who shall have professional expertise in outdoor recreation;

(5) one member, who shall be an affected landowner;

(6) one member, who shall have professional expertise in cultural anthropology;

(7) one member from the general public;

(8) the Mayor of the Town of Springerville or his or her designee, ex officio; and

(9) the Director of the National Park Service, or his or her designee, ex officio.

(b) Any member of the Commission may serve after the expiration of his or her term until a successor is appointed. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) The Chair and other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(e) The Commission shall meet at the call of the Chair or a majority of its members, but not less than twice annually. Six members of the Commission shall constitute a quorum. Consistent with the public meeting requirements of section 10 of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall, from time to time, meet with persons concerned with Indian history and historic preservation, and with other interested persons.

(f) The Commission may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this Act. Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(g) The Commission shall advise the Secretary and the Town on the management and development of the park, and on the preparation of the general management plan referred to in section 6(a). The Secretary, or his or her designee, shall from time to time, but at least semiannually, meet and consult with the Commission on matters relating to the management and development of the park.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

TOWN OF SPRINGERVILLE,
Springerville, AZ, October 5, 1992.

Re Casa Malpais National Historic Park.

Senator DECONCINI,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DECONCINI: On behalf of the Town Council and the Town of Springerville, I would appreciate your accepting this letter as our strong support for the passage of the Casa Malpais National Park Bill.

We have managed the beginning of this project by providing hand cash dollars, equipment, labor, and a museum site.

We feel that the site is a very important and significant archaeological project and would be a valuable asset among the Parks of the United States.

Last but not least, we feel that the Park would be of value to our Town and the surrounding area in strengthening a soft economy picture in Apache County.

We appreciate the work and effort you have applied to this Bill and our Town stands ready to assist in any way possible.

Very truly yours,

BARBARA HUNTER,
Mayor.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 275. A bill to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM, and for other purposes; to the Committee on Energy and Natural Resources.

TAOS, NM, LANDS ACT OF 1993

• Mr. BINGAMAN. Mr. President, I rise today to introduce legislation that will serve two important purposes. First, it will enable the Federal Government to dispose of unneeded property. And second, it will fulfill an important community need of the town of Taos, NM. This bill directs the Secretary of Agriculture to convey an old Forest Service ranger district office of the town of Taos. The town will convert this building to a children's library and adult literacy center which will greatly benefit the citizens of Taos and the surrounding area. As an added benefit, the strict preservation standards of Taos's old downtown ensure that the historic integrity of the ranger district building will be preserved. I am pleased that this transfer will foster adaptive reuse of a significant historic structure.

The town of Taos has wanted to acquire this building for some time, but its limited resources, and the high price of real estate in the community, have long proved prohibitive. This legislation specifies a repayment schedule that makes this property affordable to the town, while allowing the Federal Government to get the fair market value for the building, as required by Federal law. I want to commend my colleagues in the House, particularly Congressman RICHARDSON, in whose district the town of Taos is located, for devising a workable solution to this problem.

Mr. President, this bill has been passed twice by the Senate—in the 101st and 102d Congresses—and was passed by the House last session as well. Unfortunately, we ran out of time to finally enact the bill into law. Since this legislation has broad bipartisan support in both Houses, and will clearly benefit both the Federal Government and the people of Taos, I hope we will be able to quickly pass it into law this year.

I ask that the entire text of my statement and the legislation be printed in the CONGRESSIONAL RECORD.

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

S. 275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAOS RANGER DISTRICT.

(a) CONVEYANCE OF PROPERTY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act and subject to the terms and conditions described in subsection (b), the Secretary of Agriculture shall convey by quitclaim deed to the town of Taos, New Mexico, all right, title, and interest of the United States in and to the lands and improvements on the lands described in paragraph (2).

(2) PROPERTY.—The property referred to in paragraph (1)—

(A) is locally referred to as the "Old Taos Ranger District Office and Warehouse";

(B) is located in the town of Taos, Taos County, New Mexico;

(C) contains approximately 0.633 acres; and

(D) is specifically described in the warranty deed dated January 22, 1937, by William T. and Mary E. Hinde, husband and wife, to the United States, as recorded on January 23, 1937, in book A-34, page 415, of the Record of Deeds of Taos County, New Mexico.

(b) TERMS AND CONDITIONS.—

(1) CONSIDERATION.—

(A) IN GENERAL.—The conveyance described in subsection (a) shall be in consideration of $360,000, payable (subject to the approval of the Secretary of Agriculture)—

(i) in full not later than the end of the 180-day period referred to in subsection (a)(1); or

(ii) at the option of the town of Taos, in 20 annual payments of $18,000 each, with each payment due January 1.

(B) DEPOSIT OF FUNDS.—

(i) IN GENERAL.—Sums received pursuant to subparagraph (A) shall be deposited in a special fund in the Treasury and shall remain available until expended.

(ii) EXPENDITURE.—Upon request by the Secretary of Agriculture, the Secretary of the Treasury shall transfer from the special fund to the Secretary of Agriculture such sums as the Secretary of Agriculture determines are necessary for the purpose of acquiring lands and administrative facilities on National Forest System lands within the State of New Mexico.

(C) INTEREST.—The town of Taos shall not be charged interest on sums owed the United States for the conveyance described in subsection (a).

(2) RELEASE.—Upon transfer of the property described in subsection (a), the town of Taos shall release the United States from any liability for claims relating to the property.

(3) REVERSION.—The conveyance described in subsection (a) shall be a conveyance of fee simple title to the property, subject to reversion to the United States if the property is used for other than public purposes or if payment is not made in accordance with paragraph (1).•

By Mr. SARBANES:

S. 276. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to improve control of acid mine drainage, and for other purposes; to the Committee on Energy and Natural Resources.

ACID MINE DRAINAGE ABATEMENT ACT OF 1993

• Mr. SARBANES. Mr. President, today I am reintroducing legislation to help address a serious pollution problem—acidic runoff from abandoned coal mines—which continues to degrade the water quality of our Nation's rivers and streams. This measure was first introduced near the end of the 102d Congress and I am hopeful that it will be considered early in this session of Congress.

I spoke last August on the vital need for this legislation and I want to underscore the most compelling reasons today. Abandoned mine drainage is the unfortunate legacy of coal mining in the years before environmental laws were enacted requiring coal companies to reclaim mined land. After the coal was extracted, the land was left riddled with coal waste, known as gob piles, and pockmarked with holes. The mining activity also unearthed sulfur compounds and metals such as aluminum, manganese, and iron. When exposed to the elements, the sulfur compounds produce sulfuric acid which in turn leaches metal loads into the streams, poisoning the water and killing the fish. There are in excess of 7,600 miles of streams in 11 States including Pennsylvania, West Virginia, Kentucky, Ohio, Indiana, and Arkansas that are adversely affected by abandoned mine drainage.

In the Appalachian Region, which suffers the most serious mine drainage problems, the acidic runoff has left a major segment of our Nation's river, the Potomac River, virtually devoid of life. Much of the north branch of the Potomac, from its headwaters near Kempton, MD, to the Jennings Randolph Lake, is biologically dead. Nearly 700 miles of the north branch's streams are currently incapable of supporting fish and other aquatic life because of this drainage. Along this stretch of the Potomac there are over 4,000 acres of abandoned mine lands, including the worst offender, Kempton Mines, which discharges approximately 3 million gallons of abandoned mine drainage each day.

The Surface Mining Control and Reclamation Act of 1977 [SMCRA] established a regulatory program for current mining activities requiring land reclamation and control of acid drainage at active mine sites to assure that today's mines do not become tomorrow's abandoned mines. It also established an abandoned mine lands reclamation [AML] fund, paid for by a fee imposed on current mining production, to address problems caused by abandoned coal mines. Current law and regulations require that priority be placed on alleviating public health and safety problems posed by abandoned mine lands. However, States are authorized to set aside up to 10 percent of their allocations under the AML annually in a special account for addressing adverse environmental effects caused by abandoned mine drainage. These funds are insufficient to clean up the acidic mine drainage. These funds are insufficient to clean up the acidic mine drainage problems. My bill would provide greater flexibility for States to use existing abandoned mines reclamation funds for acid mine drainage abatement as well as health and safety concerns. Specifically it would increase from 10 to 30 percent the portion of a State's abandoned mines reclamation funds that could be set aside for addressing environmental problems caused by acid drainage. Additionally, it authorizes a discretionary grants program enabling States to apply for up to a 50-percent cost share of an acid mine abatement project, potentially doubling available funds. I ask unanimous consent that a section-by-section analysis of this bill be included in the RECORD immediately following my statement.

Mr. President, great progress has been made in restoring the health of America's rivers in the three decades since President Lyndon Johnson vowed to make the Potomac a national model for restoring the Nation's waters. Today, much of the Potomac is a haven for fish and wildlife and provides tremendous recreational and economic opportunities. However, the north branch of the Potomac remains in marked contrast to these improvements. The States of Maryland and West Virginia and the Interstate Commission on the Potomac River Basin have been working together in a cooperative effort to restore the north branch's health and improve the quality of life for residents in the surrounding areas. Unfortunately, the job cannot be accomplished without the assistance made available under this legislation. The north branch of the Potomac is only one of many areas that could greatly benefit from improved environmental conditions made possible by this measure.

I urge my colleagues to join me in supporting this bill in order to provide States with the flexibility and additional resources needed to better address environmental problems associated with acid mine drainage.

Mr. President, I ask unanimous consent that following my remarks that the full text of the bill be printed in the RECORD.

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

S. 276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Acid Mine Drainage Abatement Act of 1993".

SEC. 2. ACID MINE DRAINAGE.

Section 402(g) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)) is amended—

(1) in paragraph (3), by adding at the end the following new subparagraph:

"(E) For the purpose of paragraph (7).";

and

(2) by striking paragraphs (6) and (7) and inserting the following new paragraphs:

"(6) Any State may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 10 percent of the total of the grants made annually to the State under paragraphs (1), (3), and (5) if the amounts are deposited into a special trust fund established under State law pur-

suant to which the amounts (together with all interest earned on the amounts) are expended by the State solely to achieve the priorities stated in section 403(a) after September 30, 1995.

"(7)(A) Any State may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 30 percent of the total of the grants made annually to the State under paragraphs (1), (3), and (5) if the amounts are deposited into an acid mine drainage abatement and treatment trust fund established under State law pursuant to which the amounts (together with all interest earned on the amounts) are expended by the State to undertake acid mine drainage abatement and treatment projects. The projects shall provide for the abatement of the causes or the treatment of the effects of acid mine drainage within qualified hydrologic units affected by coal mining practices.

"(B) Any State that receives and retains funds pursuant to subparagraph (A) may apply to the Secretary for a grant in an amount not to exceed 50 percent of the cost of an acid mine drainage abatement or treatment project. A grant to a State under this paragraph shall be made from amounts available to the Secretary pursuant to paragraph (3). An application submitted to the Secretary under this subparagraph shall include a description of—

"(i) the qualified hydrologic unit;

"(ii) the extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit;

"(iii) the sources of acid mine drainage within the hydrologic unit;

"(iv) the project and the measures proposed to be undertaken to abate the causes or treat the effects of acid mine drainage within the hydrologic unit; and

"(v) the cost of undertaking the proposed abatement or treatment measures.

"(C) If the Secretary determines that an application made pursuant to subparagraph (B) meets the requirements of this paragraph, the Secretary may approve the application. In approving applications submitted under subparagraph (B), the Secretary shall give priority to applications that will be implemented in coordination with measures undertaken by the Secretary of Agriculture under section 406.

"(D) As used in this paragraph, the term 'qualified hydrologic unit' means a hydrologic unit—

"(i) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources; and

"(ii) that contains lands and waters that are eligible pursuant to section 404 and promote any of the priorities stated in paragraph (1), (2), or (3) of section 403(a).".

ACID MINE DRAINAGE ABATEMENT ACT OF 1993

SECTION-BY-SECTION SUMMARY

Section 1: Short Title.—Establishes the title of the bill, the "Acid Mine Drainage Abatement Act of 1993."

Section 2: Acid Mine Drainage.—Current law allows states to retain up to 10% of their annual funds to establish either an interest bearing account to redress public health and safety problems beyond 1995 when the act is scheduled to expire, or to establish a special acid mine drainage abatement and treatment fund to redress adverse environmental effects from acid mine drainage. This section authorizes states to take advantage of both set-asides, retaining the 10% set-aside for the post-1995 interest bearing account while raising the percentage for the acid mine drainage abatement and treatment fund to 30% instead of 10%.

This section also authorizes a grants program enabling States to apply for special grants from the Secretary's discretionary account from unused acid mine funds. The Secretary could provide up to 50% of the cost for any acid mine abatement or treatment project in qualified hydrologic units, abandoned areas covered by the Act that have biological resources that have been adversely affected by acid mine drainage.•

By Mr. SIMON (for himself, Mr. MCCAIN, Mr. DECONCINI, Mr. DODD, and Ms. MOSELEY-BRAUN):

S. 277. A bill to authorize the establishment of the National African American Museum within the Smithsonian Institution; to the Committee on Rules and Administration.

NATIONAL AFRICAN AMERICAN MUSEUM ACT

• Mr. SIMON. Mr. President, during the beginning of Black History Month, I am pleased to be joined by my colleagues, Senators MCCAIN, DECONCINI, MOSELEY-BRAUN, and DODD in reintroducing a bill that would authorize the establishment of the National African American Memorial Museum within the Smithsonian Institution. It is a honor for me to be associated with legislation that will inspire and educate people of the United States and the world about the cultural legacy of African-Americans.

As you know, I introduced this legislation last Congress. The legislation I am introducing today regarding the museum is the same legislation that was passed by the Senate on October 3, 1992. I have not, however, included the controversial amendment regarding the expansion of the National Air and Space Museum, which was added at the committee level during the 102d Congress.

As I have argued before, the need for a national museum is evident. Our Nation's Capital is home to the most comprehensive collection of American art and culture in the world, but the collection is far from complete. Out of 15 major museums and galleries, a zoological park, and 5 major research facilities; only one is solely devoted to African-American culture—the Anacostia Museum. African-Americans make up 12 percent of the population in the United States, yet they do not have a significant space in a national permanent collection. There are many wonderful private museums, such as the DuSable Museum in Chicago and the Dunham Foundation of Cultural Arts in St. Louis, that are dedicated to the preservation and presentation of African-American heritage. These museums contribute greatly to their communities, and should continue to do so. I do, however, believe that we should establish a truly national African-American museum—a museum that can stand as a national and international center for the presentation and preservation of African-American art, history, and culture.

A National African American Memorial Museum dedicated to education and to research would provide a broader and a better understanding of the outstanding contributions made by our African-American sisters and brothers to our culture and to the world. Museums are educational tools of immense power. There are over 40 million schoolchildren in the United States, 16.2 percent are African-American. These children, as do we all, need to learn about their ancestors' role in shaping this Nation.

Mr. President, these are understandably times of fiscal restraint. We have many issues abroad and at home that clamor for our immediate attention. However, the need for an understanding of our past, and our fellow Americans, demands our attention as well. When we understand our history, we can better understand ourselves. The history of the United States has been a history of struggle and conflict fueled by the belief in individual freedoms. The heritage of African-Americans reflects a unique and vital account of what is so fundamentally American, the pursuit of the freedoms afforded to all in a democracy. We cannot continue to leave the fabric unwoven, the picture incomplete.

In addition to the issues of preservation and education, there is another issue at stake here, and that is the issue of communication. The diverse population of the United States can communicate with one another, not just through words, but through the common experience of being American. Museums reflect the cultural content people share. Of the 30 million visitors to the Smithsonian every year, many are from other countries. These travelers use museums to gain cultural impressions and information. If we are to preserve and present the American heritage to all Americans and to the world, then we must include the contributions of African-Americans.

ESTABLISHING THE AFRICAN AMERICAN MUSEUM UNDER THE AUSPICES OF THE SMITHSONIAN INSTITUTION

Some have expressed concern about placing the museum within the Smithsonian given its poor record on minority issues. The committee believes that there is validity to this complaint; however, the committee is encouraged by the Smithsonian's expressed commitment to improve in this area.

The Smithsonian Institution's 5-year prospectus, "Choosing the Future," outlines the Smithsonian's commitment to cultural pluralism throughout the institution. Among the new initiatives are the wider recruitment, hiring, and retention of women and minority professionals, an increase in African-American programming, and more effective outreach to diverse cultural audiences. As stated in the prospectus:

The Institution is committed to changing its exhibitions and educational programs to provide the public with meaningful and comprehensive interpretations of all cultures. It has also committed to internal Institutional changes affecting the current profile of its workforce and the representation of cultures on its administrative and advisory boards and commissions.

The Smithsonian Institution would bring prominence and stature to the National African American Museum, as well as its 146 years of museum experience.

EXPANSION OF THE ANACOSTIA MUSEUM

A few have pointed to the Anacostia Museum as an example of a national African-American museum supported by the Smithsonian Institution. The Smithsonian created the Anacostia Museum as a neighborhood and community museum in 1967. It was never meant to be a world-class or national institution. It is the committee's intent, however, that the National African American Museum would not exist alone, but rather in cooperation with the Anacostia Museum, the National Afro-American Museum and Cultural Center at Wilberforce, the DuSable Museum, and other institutions devoted to the presentation and preservation of African-American history and culture.

AFRICAN AMERICAN MUSEUM BUILDING

Some have argued that the story of African-Americans could be told in a wing of an existing Smithsonian facility or in a location other than on or near The Mall. The committee believes that such a move would shortchange the extensive and extraordinary heritage of African-Americans. Relegating the African-American experience to a wing of an existing facility would not afford the African-American community the accord and acclaim it is due as a result of its rich heritage and contributions to the building of our great Nation. In addition, there are no Smithsonian facilities on The Mall that would accommodate the volume of materials anticipated for the national and international center showcasing African-American history and culture.

The Smithsonian Institution's African-American Institutional Study recommended that the Arts and Industries Building, located at 900 Jefferson Drive SW., Washington, DC be used to house the museum.

The Arts and Industries Building is the second oldest building on The Mall and is between the Hirshhorn Museum and the Smithsonian Castle. The building possesses 170,000 square feet, which makes it comparable in size to most midsized museums in this country. The choice of using an existing edifice over building a new museum not only preserves a historic building and will save millions of dollars, but will also allow the Smithsonian to respond more immediately to an underrepresented and underserved audience.

AVAILABILITY OF COLLECTIONS AND THE ROLE OF THE NATIONAL MUSEUM AND EXISTING MUSEUMS

I do not believe it is our role to determine what should or should not be exhibited or collected by the National African American Museum. We do encourage the Smithsonian Board of Regents and the National African-American Museum's Board of Trustees to consult with other African American museums, historically black colleges and universities, cultural and other organizations supportive of the National African-American Museum.

There are many wonderful private museums, such as the previously mentioned DuSable Museum in Chicago, IL, and the Dunham Foundation of Cultural Arts in St. Louis, MO, that are dedicated to the preservation and presentation of African-American heritage. These museums contribute greatly to their communities, and should continue to do so. It is our vision the National African American Museum would work in consultation and cooperation with existing appropriate institutions and organizations. For example, it would be appropriate for the National African American Museum to work with the African American Museum Association, the National Afro-American Museum and Cultural Center, and the Schomburg Center for Study of African American Life and History.

I urge my colleagues to join me in support of the National African American Museum Act, and its swift passage. I ask unanimous consent that the text of the bill follow my statement in the CONGRESSIONAL RECORD.

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

S. 277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National African American Museum Act".

SEC. 2. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) the presentation and preservation of African American life, art, history, and culture within the National Park System and other Federal entities is inadequate;

(2) the inadequate presentation and preservation of African American life, art, history, and culture seriously restricts the ability of the people of the United States, particularly African Americans, to understand themselves and their past;

(3) African American life, art, history, and culture includes the varied experiences of Africans in slavery and freedom and the continued struggles for full recognition of citizenship and treatment with human dignity;

(4) in enacting Public Law 99-511, the Congress encouraged support for the establishment of a commemorative structure within the National Park System, or on other Federal lands, dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people;

(5) the establishment of a national museum and the conducting of interpretive and educational programs, dedicated to the heritage and culture of African Americans, will help to inspire and educate the people of the United States regarding the cultural legacy of African Americans and the contributions made by African Americans to the society of the United States; and

(6) the Smithsonian Institution operates 15 museums and galleries, a zoological park, and 5 major research facilities, none of which is a national institution devoted solely to African American life, art, history, or culture.

SEC. 3. ESTABLISHMENT OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution a Museum, which shall be known as the "National African American Museum".

(b) PURPOSE.—The purpose of the Museum is to provide—

(1) a center for scholarship relating to African American life, art, history, and culture;

(2) a location for permanent and temporary exhibits documenting African American life, art, history, and culture;

(3) a location for the collection and study of artifacts and documents relating to African American life, art, history, and culture;

(4) a location for public education programs relating to African American life, art, history, and culture; and

(5) a location for training of museum professionals and others in the arts, humanities, and sciences regarding museum practices related to African American life, art, history, and culture.

SEC. 4. LOCATION AND CONSTRUCTION OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

The Board of Regents is authorized to plan, design, reconstruct, and renovate the Arts and Industries building of the Smithsonian Institution to house the Museum.

SEC. 5. BOARD OF TRUSTEES OF MUSEUM.

(a) ESTABLISHMENT.—There is established in the Smithsonian Institution the Board of Trustees of the National African American Museum.

(b) COMPOSITION AND APPOINTMENT.—

(1) IN GENERAL.—The Board of Trustees shall be composed of 23 members, appointed as follows:

(A) The Secretary of the Smithsonian Institution who shall serve as an ex officio member of the Board of Trustees.

(B) An Assistant Secretary of the Smithsonian Institution, designated by the Board of Regents.

(C) 1 Member of the House of Representatives appointed by the Speaker of the House from among the Speaker, Majority Leader, Minority Leader, Majority Whip or Minority Whip of the House of Representatives.

(D) 1 Member of the Senate appointed by the Majority Leader of the Senate from among the President pro tempore, Majority Leader, Minority Leader, Majority Whip or Minority Whip of the Senate.

(E) 5 individuals appointed by the Secretary of the Smithsonian Institution.

(F) 6 individuals appointed by the Smithsonian Board of Regents from among individuals nominated by the Congressional Black Caucus.

(G) 4 individuals appointed by the Board of Regents from among individuals nominated by the Board of the African American Museum Association.

(H) 4 individuals appointed by the Board of Regents.

(2) INITIAL APPOINTMENT SPECIAL RULE.—The Board of Regents shall make the first appointments pursuant to paragraph (1)(H)

from among the members of the initial Board of Trustees and pursuant to nominations received from the African American Institutional Study Advisory Committee of the Smithsonian Institution.

(c) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board of Trustees shall be appointed for terms of 3 years. Members of the Board of Trustees may be reappointed.

(2) STAGGERED TERMS.—The terms of 7 of the members initially appointed under subparagraphs (C), (E), and (G) of subsection (b)(1), as determined by the Board of Regents, shall expire at the end of the 1-year period beginning on the date of appointment. The terms of 7 of the members initially appointed under subparagraphs (D), (F), and (H) of subsection (b)(1), as determined by the Board of Regents, shall expire at the end of the 2-year period beginning on the date of appointment. The terms of the remaining 7 members initially appointed under subparagraphs (C) through (H) of subsection (b)(1) shall expire at the end of the 3-year period beginning on the date of appointment.

(d) VACANCIES.—A vacancy on the Board of Trustees shall not affect its powers and shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term.

(e) NONCOMPENSATION.—Except as provided in subsection (f), members of the Board of Trustees shall serve without pay.

(f) EXPENSES.—Members of the Board of Trustees shall receive per diem, travel, and transportation expenses for each day, including traveltime, during which they are engaged in the performance of the duties of the Board of Trustees in accordance with section 5703 of title 5, United States Code, with respect to employees serving intermittently in the Government service.

(g) CHAIRPERSON.—The Board of Trustees shall elect a chairperson by a majority vote of the members of the Board of Trustees.

(h) MEETINGS.—The Board of Trustees shall meet at the call of the chairperson or upon the written request of a majority of its members, but shall meet not less than 2 times each fiscal year.

(i) QUORUM.—A majority of the Board of Trustees shall constitute a quorum for purposes of conducting business, but a lesser number may receive information on behalf of the Board of Trustees.

(j) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Board of Trustees may accept for the Board of Trustees voluntary services provided by a member of the Board of Trustees.

SEC. 6. DUTIES OF THE BOARD OF TRUSTEES OF THE MUSEUM.

(a) IN GENERAL.—The Board of Trustees shall—

(1) recommend annual budgets for the Museum;

(2) consistent with the general policy established by the Board of Regents, have the sole authority to—

(A) loan, exchange, sell, or otherwise dispose of any part of the collections of the Museum, but only if the funds generated by such disposition are used for additions to the collections of the Museum or for additions to the endowment of the Museum;

(B) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the collections of the Museum;

(C) establish policy with respect to the utilization of the collections of the Museum; and

(D) establish policy regarding programming, education, exhibitions, and research, with respect to the life and culture of African Americans, the role of African Americans in the history of the United States, and the contributions of African Americans to society;

(3) consistent with the general policy established by the Board of Regents, have authority to—

(A) provide for restoration, preservation, and maintenance of the collections of the Museum;

(B) solicit funds for the Museum and determine the purposes to which those funds shall be used;

(C) approve expenditures from the endowment of the Museum, or of income generated from the endowment, for any purpose of the Museum; and

(D) consult with, advise, and support the Director in the operation of the Museum;

(4) establish programs in cooperation with other African American museums, historically black colleges and universities, historical societies, educational institutions, cultural and other organizations for the education and promotion of understanding regarding African American life, art, history, and culture;

(5) support the efforts of other African American museums, historically black colleges and universities, cultural and other organizations to educate and promote understanding regarding African American life, art, history, and culture, including—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections;

(C) participation in the training of museum professionals; and

(D) creating opportunities for—

(i) research fellowships; and

(ii) professional and student internships;

(6) adopt bylaws to carry out the functions of the Board of Trustees; and

(7) report annually to the Board of Regents on the acquisition, disposition, and display of African American objects and artifacts and on other matters the Board of Trustees deems appropriate.

SEC. 7. DIRECTOR AND STAFF.

(a) IN GENERAL.—The Secretary of the Smithsonian Institution, in consultation with the Board of Trustees, shall appoint and fix the compensation and duties of a Director, Assistant Director, Secretary, and Chief Curator of the Museum and any other officers and employees necessary for the operation of the Museum and the carrying out of the duties of the Board. The Director, Assistant Director, Secretary, and Chief Curator shall be qualified through experience and training to perform the duties of their offices.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Secretary of the Smithsonian Institution may—

(1) appoint the Director and 5 employees under subsection (a), without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) fix the pay of the Director and such 5 employees, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(2) The term "Board of Trustees" means the Board of Trustees of the National African American Museum established in section 5(a).

(3) The term "Museum" means the National African American Museum established under section 3(a).

(4) The term "Arts and Industries building" means the building located on the Mall at 900 Jefferson Drive, S.W. in Washington, the District of Columbia.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $5,000,000 for fiscal year 1994 and such sums as may be necessary for each of the succeeding fiscal years.●

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. CAMPBELL, and Mr. SIMON):

S. 278. A bill to authorize the establishment of the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial in the State of South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

MEMORIAL ESTABLISHMENT ACT OF 1993

Mr. DASCHLE. Mr. President, today I am joining with my colleague from South Dakota, Senator PRESSLER, and Senators CAMPBELL and SIMON, to introduce legislation that would establish the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial in South Dakota. The purpose of this effort is to acknowledge the historical significance of the armed struggle between the Plains Indians and the U.S. Army that culminated in the massacre of over 300 Lakota Sioux men, women, and children at Wounded Knee, SD, on December 29, 1890.

The historical importance of Wounded Knee is clear. This watershed event came at a time of great turbulence and upheaval for the Indians of the Plains, and it signaled an end to a tragic chapter of American history that is often referred to in history texts as the Indian wars. What is perhaps more significant is that it marked the turning point in national policy that forced tribes onto smaller and smaller reservations and toward greater and greater dependency on the Federal Government.

On December 15, 1890, Indian agents in the employ of the Government, concerned about the potential ramifications of a spiritual movement among the Sioux known as the Ghost Dance revival, attempted to arrest Chief Sitting Bull. When one of his followers shot at the Indian police, they returned fire, mortally wounding Sitting Bull.

Chief Big Foot, Sitting Bull's half brother, took in Sitting Bull's followers. The band fled from the Badlands toward the Pine Ridge Reservation. The U.S. Army intercepted the party and accepted an unconditional

surrender from Chief Big Foot, and the entire band was escorted to Wounded Knee Creek.

A subsequent skirmish between several of Chief Big Foot's followers and soldiers was initiated by a single gunshot, the origin of which remains undocumented. This exchange quickly escalated into a largely one-sided volley of bullets, leaving approximately 350 to 370 Sioux men, women, and children dead or wounded. The U.S. Army suffered 60 casualties, many of whom were reportedly hit by bullets fired by their comrades.

Those are the facts of the Wounded Knee Massacre. One hundred years later, the 101st Congress passed Senate Concurrent Resolution 153, which acknowledged the carnage at Wounded Knee and expressed congressional support for the establishment of a suitable and appropriate memorial to those who were so tragically slain at Wounded Knee.

The bill we are introducing today gives substance to that sentiment.

Mr. President, considerable thought has been given to the Wounded Knee Memorial project. It has truly been a joint effort among representatives of the descendants of the victims and survivors of the Wounded Knee Massacre, the Oglala Sioux and Cheyenne River Sioux Tribal governments, Members of Congress, the State of South Dakota, and the Department of the Interior.

This effort has traveled a long road. Since 1950, Wounded Knee has been studied six times by the National Park Service and has been identified as a prime candidate for addition to the National Park System. Since 1987, the Lakota Tribes and the State of South Dakota have been cooperating to plan for the preservation and interpretation of Wounded Knee.

In Congress, the Senate Select Committee on Indian Affairs held hearings on proposals to establish a Wounded Knee Memorial and Historic Site on September 25, 1990 in Washington, and on April 30, 1991, at the Pine Ridge Indian Reservation.

In May 1991, at the request of the Lakota Sioux and with the support of the Secretary of the Interior, the National Park Service began a study to explore management alternatives for the Wounded Knee site. This process has included strong public participation from the Oglala Sioux Tribe, the Cheyenne River Sioux Tribe, and the Wounded Knee Survivors Associations.

In my mind, there is no doubt about our common goal—the establishment of the Chief Big Foot National Park and a Wounded Knee Memorial. However, I do not view the introduction of this legislation today as the culmination of this cooperative effort or the end of public comment.

There are a number of issues addressed in this bill that will require further discussion and refinement, and all interested parties will be encouraged to participate in this process. I anticipate that park service studies and congressional committees will devote additional time and energy to such issues as land acquisition for Chief Big Foot National Park, design of the Wounded Knee Memorial, and management of the national park and memorial. Additional input from the Oglala Sioux and Cheyenne River Sioux Tribal officials, the Wounded Knee Survivors Associations, individual tribal members, the State of South Dakota, the Department of the Interior, and Congress undoubtedly will further improve this project. I welcome debate on this proposal and look forward to participating in the deliberation process.

Mr. PRESSLER. Mr. President, I am pleased to join my South Dakota colleague, Senator DASCHLE, along with Senators CAMPBELL and SIMON in introducing legislation to establish the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial in our home State of South Dakota. The purpose of this legislation is to acknowledge, preserve, and protect the historical sites of the Wounded Knee Massacre of 1890. National recognition is long overdue

For a number of years, the Wounded Knee Massacre has been an important issue to the U.S. Congress. During the 101st and 102d Congresses, the Senate Select Committee on Indian Affairs held hearings to discuss the historical significance of Wounded Knee. Also, during the 101st Congress, the Senate adopted a resolution in recognition of the 100th anniversary of the 1890 Wounded Knee Massacre. This resolution, which I cosponsored, expressed congressional support for the establishment of a suitable and appropriate memorial to those tragically slain in the 1890 massacre. Enactment of the legislation we are introducing today will bring reality to those congressional words of support.

Many Americans do not have a clear understanding of the historical events leading to the 1890 massacre. Conflicting versions of the historical chain of events exist. However, an article by Rev. Sidney Byrd, "The Betrayal at Wounded Knee Creek," provides an insightful native American account of this tragic chapter in American history. I ask unanimous consent that immediately following my remarks, a copy of Mr. BYRD'S article from the December 31, 1992 issue of Indian County Today be printed in the RECORD.

Proper acknowledgment of the 1890 Wounded Knee Massacre has been long overdue. In fact, the National Park Service has studied the historical significance of Wounded Knee six times since 1950. The Park Service consistently has reaffirmed it as a nationally significant area and a prime candidate for additional to the National Park System. The massacre sites must be preserved and protected.

When this legislation was first introduced late in the 102d Congress, both Senator DASCHLE and I stated that legislative revisions and fine tuning might be needed. In this effort, I look forward to working with my Senate colleagues, members of the Cheyenne River and Oglala Sioux Tribes, the Governor of South Dakota, the National Park Service, and other interested individuals and organizations. Above all, we must ensure this legislation is implemented with proper consultation with South Dakota's native American communities.

I urge my colleagues to join with us in support of this legislation. Its enactment will promote a greater understanding of the events associated with the Wounded Knee Massacre. In turn, America's appreciation of Indian culture, heritage, and history will be enhanced.

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

(From Indian Country Today, Dec. 31, 1992)

WOUNDED KNEE REMEMBERED

(By Sid Byrd)

The story of the horrible massacre of innocent Sioux Indians at Wounded Knee Creek in South Dakota by soldiers of the U.S. Army at the end of the last century has been told and retold by many competent writers. However, most of these writers are white men. This does not mean their credibility is questioned. It just means there is another side to the story.

The military has always regarded that shameful slaughter as a glorious victory for Gen. George Armstrong Custer's former unit, the U.S. 7th Cavalry regiment. If one considers the ruthless murder of noncombatant women and children a triumphant conclusion of Indian wars, then a careful reexamination must be made of that tragedy from the victim's perspective.

This is in fairness to Chief Big Foot's memory. He died a martyr for embracing the Ghost Dance religion as freely as other men have embraced their religions.

This story is a memorial to Big Foot and to those who died with him. Thus, it seems appropriate to me to look closely at the other side of the valor claimed by the soldiers. There is a conviction among many Indians today that one of the darkest pages in the annals of military history was written that sad day on the banks of the Wounded Knee Creek.

These Indians have rightly judged that the opposite of valor is cowardice; of honor, disgrace; of devotion, hatred; and of duty, disloyalty. Their eyes perceive the actions of the soldiers differently. When you concluded this story, you may agree with them.

I am not in the twilight of my life, having survived for many winters and exceeding the life expectancy determined for us by the Bureau of Indian Affairs by several years. I was born and reared at the village of Porcupine, which is just seven miles north of the site of the killing ground at Wounded Knee.

I feel compelled to retell the story of what happened at Canke Opi Wakpala, the name given by the Sioux to Wounded Knee Creek. Time passes all too quickly and I must share this story with all my precious takojas, my grandchildren, before my eyes close in eternal slumber.

This is the story as told to me by our elders. In truth, it is their story.

As a small boy, I sat around campfires during our warm summer nights to share a meal from the cooking pots and to hear the old men talk. During our long winter months, I joined these Indian men as they gathered around a pot-bellied, wood-burning stove at the trading post. The old stove was always maintained at a comfortable rosy glow. Its warmth seemed to bring contentment to the old men. They huddled on the rough wooden benches circling the source of heat with their brown, wrinkled faces.

Many of their bodies were bent from the snows of many winters, but they were a cheerful group. At these leisurely gatherings, I would sit enthralled by the hour. The old men recounted our history, gave accounts of war deeds, imparted wisdom, shared their philosophies and told humorous tales.

Most of them knew me by my Lakota name. They would make room for me on one of the benches and say, "Hiyu wo, Hoksila Waste!" (Come, Good Boy!) Sometimes I would see a twinkle in their eyes and I knew I was in for a very special treat. They knew I cherished their association and companionship.

They also knew I was reared almost like an orphan by loving grandparents so they included themselves as a part of my extended family. I accepted them all as my grandparents, too. They took special pains to maintain and enhance our kinship ties. It is the way of our people. No one is ever without friends or relatives.

I considered it the highest tribute I could receive to be accorded an honored place in their circle of friendship at such a tender age. Quite frequently, I was invited to smoke socially with them from their red Calanite pipes. These quite interludes when we shared the pipe held no religious significance. They were intended to be only happy times used merely for relaxation and enjoyment.

These old men wanted to prepare me for manhood and to teach me proper lessons of etiquette so I would know how to behave in the true manner of a Lakota. I was their willing pupil. I am now a non-smoker, but to this day when I smell the sweet fragrance of cansasa, I am overwhelmed by a flood of good memories of all my beloved grandfathers.

If I were invited to share a pipe bowl full of cansasa today by an old grandfather, I would gladly accept and consider it a high honor.

Cansasa is kinnikinick, our Indian tobacco made from the inner bark of red willow.

Alas, these great philosophers, and tellers of tales of my boyhood have all departed to the Spirit World.

Their voices are silent forever. Their sounds of good-natured laughter will never be heard again in this life, but their memory will always live in the treasure house of my heart.

Our wealth is measured in other ways than that of the wasicuns (white men or Americans). They measure their wealth only in material gains. These old men who claimed me as their takoja were my first teachers.

To my knowledge, none of them ever went to school, but that didn't make any difference to me. They were the wisest men I have ever known. None spoke English, except to mimic the wasicun when he swore obscenities. This was always a source of amusement to the old men.

At these gatherings, I always maintained my place in respectful attention, speaking only when it was absolutely necessary. Mostly, I listened politely. Sometimes it was difficult to suppress my youthful exuberance, especially when I was excited. It was with considerable discipline that I was able to maintain my silence and proper decorum. At the same time, it was easy to give in to the wise elders who were always polite to their takoja. They were always kind, gentle, patient and tolerant with me. My love and respect for them has never diminished.

It was from these unlettered grandfathers that I was given excerpts of our local tradition. And from these sources I now attempt to reconstruct the story of the massacre at Wounded Knee Creek. I have never questioned the authenticity of these accounts nor have I questioned the reliability of the storytellers. That will remain for the critics. We have always had our share of detractors. In our traditional way, the wise speak and the young listen.

Thus, from the parfleche of my mind and from the winter count of my heart, I have drawn out precious bits and pieces of old tales. I now hand down to my dear takojas this collection of incidents as they were told to me by the Ancient Ones at whose feet I sat when the world was younger. I offer no apologies for them or for myself. Perhaps one day when we gather around that great campfire in the sky, we will hear the true story from the Grandfather of all grandfathers.

On Dec. 28, 1890, troops of the U.S. 7th Cavalry Regiment moved quickly near Porcupine Tail Butte in South Dakota on the Pine Ridge Indian Reservation. This was the same unit that had been soundly defeated and completely annihilated in the battle of the Little Big Horn under the command of Gen. George Armstrong Custer in Montana on June 25, 1876. On this late December day, 14 years later, four heavily armed troop columns under command of Maj. Samuel Whitside were the advance strike force which intercepted the Indians of Big Foot's band.

There had been increased tensions, suspicions, and threats because of the emergence of the Ghost Dance religion among the Plains Indians. Big Foot had fled to the sanctuary of the Badlands with his people to avoid any military confrontation. He realized war was no longer the way to settle disputes.

He knew to fight was futile since the enemy outnumbered him overwhelmingly and had superior weapons. He had seen the soldiers practice with their deadly big-gun-on-wheels at the fort. He sincerely desired peace and wanted to protect his band, most of whom were women and children.

However, fearful settlers and accommodating politicians demanded a military presence and a show of strength.

What Big Foot did not know was that a "Hit List" had been prepared by the War Department and issued to all Indian agents to arrest, on sight, those whose names appeared on the list, including Big Foot. He was considered one of the principal malcontents. His only crime was he had embraced a new religion! He was thought to be a zealot in the "Messiah Craze" movement, as the Ghost Dance religion was called.

Thus, what precipitated the eventual slaughter of almost the entire band of Indians at Wounded Knee Creek had at its core the right of religious freedom, which in turn lies at the foundation of this country's life. In this case, the white men very clearly and openly violated their own laws regarding religious freedom. They outlawed an Indian religion, kept theirs, and demanded the death penalty for the Indians.

What would have happened had the poor Pilgrims landing on our shores been told Christianity was outlawed and its practice punishable by death? Incredibly, in the case of Big Foot, the federal government determined what religion could be practiced by the Indians. To prove it would not tolerate any violations of its orders, the federal government sent out its troops to enforce its orders and to make the Indians comply.

War hysteria flamed the frontier because of the Ghost Dance religion which had been brought to the Plains Indians. Chief Sitting Bull was already dead. He was assassinated in the early morning hours at his home on Dec. 15, 1890, by a large detachment of Indian police under Lt. Bull Head. A supporting force of U.S. Cavalry eagerly waited only a short distance away, ready to rush in at a moment's notice with superior weapons.

The old chief was suspected of permitting the new religion to be brought from Nevada to South Dakota and advocating its adoption. These suspicions were totally unfounded. It is true that Kicking Bear and other self-appointed emissaries had made a pilgrimage to the Holy Land of the prophet, Wovoka.

They had an audience with him and when they returned they shared the news with Sitting Bull. However, it is doubtful that Tatanka Iyotanka was converted to the new religion. He was shot while resisting arrest, according to a report by Indian Agent James McLaughlin to Lt. Col. William F. Drum.

The latter had been issued orders to arrest Sitting Bull on the Standing Rock Indian Reservation in South Dakota. These orders were given by Gen. Nelson Miles. The wise old chief could only smile at the ridiculous charges brought against him. He was only slightly amused at the large movement of troops to quell religious gatherings of Indians.

Even in death, the renown he enjoyed in life followed him. Today, Tatanka Iyotanka, Chief Sitting Bull, is recognized as the most famous Indian leader in all history.

The new religion originated from Pyramid Lake in Nevada by a Paiute prophet whose name was Wovoka. He taught his followers that the buffalo herds would return and the Indians would be restored to their former days of power and glory. Also, long-departed loved ones would be seen. He further taught, when the believers donned their sacred vestments, they would be impervious to bullets.

These were specially made shirts painted with appropriate symbols and colors and ritualistically passed through the smoke of the prairie sage. Both the garment and its wearer had to be purified in an approved manner. This act was always performed by a designated leader in the movement. The white men called these garments "Ghost Shirts."

The religion offered hope, it appealed to an oppressed and struggling people. It is understandable why it attracted many adherents. While the religion was pacifistic in nature, distrustful whites feared it would foster a new surge of militancy among the western tribes.

Messengers located Big Foot's band in the Badlands. He was solemnly promised if he returned to the agency at Pine Ridge under a flag of truce, he would be given safe conduct, provided food and given medical attention.

Big Foot was suffering from pneumonia and he had a high fever at that time. He was further assured no harm would come to his people. He was doubtful the white men would keep their word. He had been lied to before by them.

He was aware of their past violations of good faith. All of their previous promises

made to Indians were never kept. Why should he believe the white man had a sudden change of heart at this late date?

However, when he observed the emaciated bodies of his hungry people, especially the little children, he reluctantly consented to move to the agency. He had his criers call his people to prepare to move camp.

Accordingly, pieces of white cloth were placed on improvised staffs and attached to their wagon boxes. Others carried the staffs in their hands as they rode their gaunt ponies en route to the agency. The flags were clearly visible from a distance. The Indians had no reason to fear. They had given their word of honor. They fully expected the white men to honor their solemn pledge also. Some of the hardened warriors murmured among themselves, "Are we being led into a trap?"

Needless to say, the arrogant soldiers were spoiling for a fight. They wanted to avenge the utter defeat of their comrades in the earlier encounter with the Sioux and their allies, the Cheyenne. This happened 14 years earlier, during the battle at the Little Big Horn River in Montana on June 25, 1876.

Big Foot's band peacefully surrendered to the troops. They were escorted by grim-looking armed guards to the banks of Wounded Knee Creek, located only a few miles from Porcupine Tail Butte, a prominent landmark.

The Indians were instructed to pitch camp on the level ground near the stream. Maj. Whitside ordered his men to surround the Indians and secure the area. The soldiers immediately began to circle the camp. They also strategically emplaced two Hotchkiss cannons on a rise overlooking the campsite. These cannons were placed at point-blank range, at a distance no less than 100 yards. They were capable of firing a five-point explosive shell a minute.

Questions have always been raised why it was necessary to place these destructive weapons around the camp of innocent people who came under the flag of truce. When warring parties agree to live in peace, do they not refrain from making hostile moves?

Events that followed seem to confirm the Indians' suspicions that it was indeed a prearranged plan of treachery.

The nervous soldiers took extra precautions and wanted to make absolutely certain none of the Indians would escape. They finally had their captives where they wanted them, caught in the steel jaws of a trap. They didn't want to take any unnecessary chances.

As far as they were concerned, this was no ordinary escort detail. This was total war! The jittery soldiers checked and rechecked their weapons and ammunition.

Under cover of darkness, Col. James W. Forsythe, commander of the regiment, arrived with the rest of the troops and two additional Hotchkiss cannons. The guns were quickly emplaced in support positions. All was ready. The trap was set!

The jubilant men congratulated one another for the success of their mission. Temperatures began falling. They warmed themselves around a campfire and fortified their bellies with illegal whiskey.

Dec. 29, 1890, will always live in the memory of all Lakotas and their allies as a day of infamy. The sun broke bright and clear. The Indians were made to sit in rows as the soldiers resumed their search for weapons begun the previous day.

They went into the tents and tipis. These were some objections voiced by the Indians, especially the women. They saw their meager belongings being thrown indiscriminately into a pile in the center of the camp.

These objections were completely ignored by the soldiers. Instead they seemed to enjoy goading the Indians with sneers and insults, daring them to make a false move. Others made provocative gestures and taunted them. This vindictive mood was reflected in the events that followed. The Indians, however, did not move, but remained in their places on the ground.

No one really knows what happened next. Accounts vary. One describes a soldier demanding, in the name of the United States Government, a rifle hidden under an Indian's blanket. It was not actually hidden, but the manner in which rifles are normally carried by Indians gave the impression it was intentionally concealed. In any event, the soldier had orders to disarm hostile Indians and that was exactly what he intended to do.

The order was utterly ridiculous to the Indian. It made absolutely no sense. What did the United States Government have to do with his ownership of a rifle? He had paid dearly for it and needed it to feed his family. He had purchased it fairly from a white trader. He would give it up only if the soldier would compensate him for it in equal value.

Besides if the Indian was required to lay down his weapon, then the soldier should also lay down his rifle. The indignant soldier ignored the demand for compensation and refused to lay down his rifle as suggested. Instead the trooper insulted the Indian with a harsh slap across the face. The Indian shot him where he stood.

Just exactly what happened is unknown.

Perhaps it was the other way around and it was the soldier who shot the Indian in their argument over the rifle. This is but one account. For the most part, historians have relied almost exclusively on reports released by the U.S. Army while ignoring other sources of information, as if only the Army's version of conflicts with Indians was correct.

Another account as to who fired the first shot at Wounded Knee Creek tells of an Indian brandishing a rifle, holding it high over his head with both hands. A soldier shouted at him to place the rifle on the ground. When the Indian did not obey, he was shot in the back. He crumpled to the ground dead. The soldier quickly chambered another cartridge in his rifle in case he had to shoot again. It was later learned the Indian was deaf! The Great Spirit alone knows who fired the first shot.

In any case, a single shot rang out, like a signal, in the clear, cold air and reverberated across the rolling prairie. It was from a soldier's rifle since they were the only ones armed at that moment. All hell broke loose! Pandemonium exploded on the scene. There was mass confusion. Immediately the hopelessly outnumbered Indians engaged the soldiers in desperate hand-to-hand combat. They shouted to their women and children to run for cover, "*Inyanka po! Inyanka po!*" No one knows who gave the order, but the cannons opened up with their explosive shells with devastating effect.

They poured salvo after salvo of shell bursts into the small target area that was the Indian camp. Since there was no counter fire, the artillerymen conducted their mission like a training exercise, with deadly efficiency.

They ripped into the defenseless Indians and tore their tents and *tipis* into shreds. The cries of the women and children could be heard as they ran screaming into the ravines and away from the carnage. The cavalrymen rode after them on horseback, bashing in their heads with rifle butts and ripping open their bellies with sabers. Some older men could do no more than give their traditional guttural sound *(hna, hna)* of courage and defiance.

They stood bravely to meet their foe with only their bare hands and certain death. All were killed where they stood. Perhaps for them it was, "A good day to die!" A heavy cloud of acrid gunsmoke hung like a blanket over the campsite, symbolic burial scaffold for the Lakotas.

Later some of the bodies would be found four to five miles from the scene of the slaughter. The soldiers would whoop as they spotted another woman fleeing into the woods and gave chase on horseback. They made sport of it. These old women and young children never had a chance. It is said that shouts could be heard above the din, smoke and fire: "Remember the Little Big Horn!"

One Indian combatant, as he lay bleeding from his wounds, later said it was as if the soldiers were crazed by the sight of blood. They appeared wild-eyed as they shot again and again into some of the bodies. These supposedly seasoned troops acted as if they were possessed by the devil.

Another victim, a woman, miraculously escaped the barbaric blaze of gunfire in a clump of thickets in the ravine. Two terrified little girls came screaming by. She grabbed each of them and pulled them into the thicket with her. She quickly covered their mouths with her hands to silence them. When she looked up, she saw a mounted soldier leering wickedly at her and the children. He took deliberate aim, fired one shot, and killed the first little girl instantly.

The soldier calmly reloaded his rifle. The woman raised her arms to shield the second little girl. The soldier aimed carefully and shot his second victim. He loaded his rifle again. This time he shot the woman. She fell backwards out of the thicket. The soldier rode down into the ravine. The woman was still alive, but feigned death and lay perfectly still. He took out his long saber, lifted her skirt, exposing her thighs, grinned, and rode away. She survived the terrible ordeal and gave this account to Dr. Charles Eastman before she died from her wounds.

When the bloody massacre mercifully ended, the killing ground revealed more than 150 Indians and 25 soldiers dead by the official body count. This figure does not include the many Indians who later died from their wounds. There is no doubt most of the soldiers were caught in their own crossfire and killed by their own men. Most of the Indians were without weapons.

Two days were spent disarming them before the actual shooting began. The few weapons acquired by the Indians were taken in hand-to-hand combat. At a much later date, it was estimated only 50 Indians survived from the original 350 who made up the band at the time of Big Foot's arrest.

The officers commended their soldiers for excellence in performance of duty and for distinguishing themselves in the face of the enemy. This, in the highest tradition of the U.S. Army, bringing honor and credit to themselves and their country. The soldiers gleefully accepted what they considered their finest hour and a major military victory. They had successfully sprung the trap and defeated the enemy decisively. Custer's humiliation was avenged at last!

Big Foot, whom they regarded as a rebellious religious agitator, was dead and would pose no further threat. Perhaps at another time and under different circumstances, Si Tanka, as he was known to his own people, would have been honored as a religious reformer and leader. His spirituality and integrity would not have been questioned.

Incredibly, troopers of the proud U.S. 7th Cavalry regiment would be recommended for the Medal of Honor. This is the highest honor the United States Congress can bestow upon members of the military for gallantry above and beyond the call of duty. The "Long Knives," as the soldiers were called by the Indians, claimed this was their day.

Never in the history of our Armed Forces have so many been recommended for the medal for so brief an engagement, an action regarded as totally unwarranted and utterly disgraceful by decent, peaceloving people everywhere.

Later there would be an investigation and inquiry made by the higher echelons of the military brass into the conduct of the U.S. Army on this tragic occasion. The hearing was perfunctory in nature, held merely to satisfy critics. As always, the Army would not admit any wrongdoing.

It never has, and never will. This denial was consistent with past denials when the Army was questioned about atrocities perpetrated against Indian tribes. After all, did not the Army have orders to protect the frontier from marauding, uncivilized savages? Were they not mandated to ensure the peaceful expansion of progress to the Western shores and to secure land?

This prevailing attitude of the white settlers and military personnel was expressed in the popular wisdom of those days, which said, "The only good Indian is a dead Indian!" A few years ago, the Army reviewed all its records of "The Battle of Wounded Knee," as they called the massacre. After a lengthy study, the Army concluded it had indeed acted with compassion!

On the morning of Dec. 30, 1890, an Army burial detail was sent out to recover the dying and to bury the dead. It had snowed during the night and there had been freezing temperatures. The bodies of the dead were scattered over the prairies and in the ravines. They were frozen into grotesque shapes and covered with snow. While digging in the snow, the soldiers heard the pitiful cries of a baby. They followed the sound and discovered the infant under the body of her mother who had been mortally wounded.

Both were lying beneath a blanket of snow that had drifted over them during the night. It was immediately apparent what had happened. In her final moments the mother removed her blanket, wrapped the tiny baby, covered it with her own body for protection, and awaited death. The mother will always exemplify the noblest and highest expressions of selflessness and devotion of our Lakota women.

When all the bodies were collected, they were dumped unceremoniously into a large ditch that had been hurriedly dug out of the frozen ground. They were treated like animal carcasses. No religious rites were administered and no prayers offered. No one cared. Two eagles screamed as they soared high in the sky in a final tribute to the slain Indians.

Today a lonely stone marker stands on the hilltop overlooking the site of the killing ground. The marker is a reminder, lest we forget, of the final resting place of the first true American patriots and Freedom Fighters. They were denied citizenship and became prisoners in their own land. To use a military term, "They gave their last full measure of devotion." They died as countless other native peoples have died before them, defending their homeland and way of life from the relentless encroachment of invading hordes of foreigners greedily questing for gold, land, and other riches.

Their insatiable lust for land was, and is, both unbelievable and frightening. They trampled everything before them, despoiling and ravaging the land in an orgy of destruction. They completely ignored the original caretakers and stewards of the land as they stampeded westward, seeking more and more riches.

At the hearing conducted after the massacre, the Indian Agent asked one of the soldiers to justify killing small children. The trooper replied, "Sir, I am a soldier. I have been trained to kill the enemy. Besides, nits make lice and a rattlesnake is a rattlesnake!" Then he spat contemptuously and walked away.

This attitude was exemplified in many ways from the very beginning of the military's encounter with the Indians. For instance, in 1869, a Presbyterian missionary was sent to Arizona Territory to bring the Christian gospel to the Navajo people. Unfortunately, he arrived in the company of the U.S. 3rd Infantry. A newspaper of that day described the purpose of the troops as, "conversion and death to the heathens. Glory to God and our Cavalry."

A caravan of wagons brought the wounded and dying from Wounded Knee Creek to an old Episcopal Church at the agency village of Pine Ridge 15 miles away. The building was hastily converted into a field station to accommodate the broken and bleeding bodies.

Dr. Charles Eastman, a Senate Sioux whose Dakota name is Ohiyesa, or The Winner, had been appointed to serve the reservation only a month earlier by the U.S. Indian Service. He provided whatever medical care and attention he could. He was greatly hampered by the lack of equipment and modern medicine. Many died. Some whites suspected him of malpractice.

The old church had celebrated the birth of Jesus Christ, the Prince of Peace, a few days earlier. A homemade sign was left hanging above the altar from the celebration. It provided a fitting final benediction for Big Foot. The sign read: "Peace on earth, good will to men." Like the Prince of Peace, Big Foot had come in peace and was executed like a criminal.

Outside the church, old warriors wrapped in blankets stood in the swirling snow to chant their final death songs in the frosty air, concluding with their traditional sounds of courage. Some of them smote their breasts in their lament. Standing with them were the women. They had their hair cut jaggedly with knives as a sign of mourning. They wailed brokenly in their grief. Some of the old grandmothers could do no more than groan hoarsely as their frail bodies shook convulsively. Their tears were spent.

Meanwhile, guidons of the proud U.S. 7th Cavalry Regiment fluttered briskly in the wind. The troopers saluted their officers smartly as they trailed their cannons into the village.

They truly considered themselves conquering heroes. Wounded Knee Creek would be the site of the last major conflict between Indians and the U.S. Army. If there is a lesson to be learned from this experience, it is that Indians can live with pain, treachery, and broken promises. The dishonor does not belong to them.

Sometimes the wind blows over the hilltop at Wounded Knee Creek and moans its mournful death song for the heroes of Big Foot's band resting peacefully in the bosom of our Mother Earth. The soldier's guns are silent now as are the moan and groans of the Indians who died there.

Little children laugh and play on the grassy hillside, oblivious to what happened there one cold, winter day, many years ago. And now, I must bring this story to an end in loving tribute to Si Tanka, who was truly a man of peace. Ho, mitakojapi, iyuskinyan nape ciyuzapi yelo.

My grandchildren, I give you my hand of friendship. Hoksila Waste miye (I am, Good Boy).

By Mr. LIEBERMAN (for himself and Mr. BRYAN):

S. 279. A bill to prohibit the receipt of advance fees by unregulated loan brokers; to the Committee on Banking, Housing, and Urban Affairs.

ADVANCE FEE LOAN SCAM PREVENTION ACT OF 1993

• Mr. LIEBERMAN. Mr. President, I am pleased today, with Senator BRYAN, to reintroduce the Advance Fee Loan Scam Prevention Act of 1993. Introduced in the last Congress as S. 2578, this bill combats a type of scam being perpetrated by the bottom feeders of our society, who prey upon people's desperation during hard times. This bill is the result of a hearing held in December 1991 by the Governmental Affairs Committee's ad hoc Subcommittee on Consumer and Environmental Affairs, which I chaired. What we learned proves that when the going gets tough, the swindlers get going.

These schemes are devilishly simple. The perpetrator takes out an ad in the newspaper advertising his or her ability to help people secure a loan. When the consumer, who is usually down on his luck and being hounded by creditors, calls, he or she is told that to get a loan, they must pay a processing or good faith fee of anywhere from $100 to $100,000. The con artist then takes the money and runs. To add insult to injury, some of these con artists are even using 900 numbers to bilk even more money from the desperate. During my investigation, I received a letter from one woman who paid $50 just for the initial, 3-minute call to a 900 number in response to an ad promising easy credit cards.

I also learned that you can't even defend yourself by asking good questions. One loan broker, shut down by Connecticut Attorney General Richard Blumenthal, told potential victims:

He was a member of the Greater Hartford Chamber of Commerce—he was not;

His fees for services were refundable—most were not;

He guaranteed he would procure loans of from $1,000 to $10,000—he did not;

Loans would come within 14 days—they did not.

The recession, which is still going strong in much of our country, has turned America into a lucrative hunting ground for these scams. Boiler rooms around the country hum with activity, taking calls and money from desperate people in need of a loan. The Better Business Bureau estimated that financially strapped consumers and

small businesses are losing a million dollars or more each month to loan broker con artists. That is a million dollars a month that could otherwise be used to help people and businesses stay afloat and recover.

At our hearing, we heard testimony about what the states are doing successfully to combat advance fee loan scams. Last year, Florida passed a law to prohibit unregulated loan brokers from charging advance fees, and it made violations of that law a felony. As a result, Florida saw an 85-percent drop in boiler rooms operating within its borders. Other States, including Connecticut, have moved to follow Florida's lead.

But these actions by the States cannot fully address this problem. Many of these loan scammers are sophisticated, and deliberately operate across States lines in order to attempt to frustrate State law enforcement efforts. Indeed, last December 38 States asked the Federal Trade Commission to facilitate a comprehensive, nationwide strategy to eradicate advance fee loan schemes.

This bill complements that effort. In this bill, we prohibit unregulated loan brokers from charging fees before closing a loan. Violators are subject to criminal penalties of up to 5 years in prison, fines, and civil forfeiture of all ill-gotten gains. The bill also gives the FTC the power to obtain refunds for consumers, damages and civil penalties of up to $10,000 per violation. Federal law enforcement officers will have a powerful tool that they can bring to bear to stop interstate advance fee loan fraud. Of course, this bill does not preempt State efforts to combat this problem.

Mr. President, it is my intent to seek to have this bill moved quickly this year. It is uncontroversial, and has been endorsed by the Mortgage Bankers Association.

I ask unanimous consent that the text of the letter to me from the Mortgage Bankers Association, and a copy of the bill be reprinted in the RECORD immediately following my remarks.

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

S. 279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Advance Fee Loan Scam Prevention Act of 1993".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) LOAN BROKER.—The term "loan broker"—

(A) means any person who—

(i) for, or in expectation of, a consideration, arranges or attempts to arrange or offers to find for any individual, consumer credit;

(ii) for, or in expectation of, a consideration, assists or advises an individual on obtaining, or attempting to obtain, consumer credit; or

(iii) acts or purports to act for, or on behalf of, a loan broker for the purpose of soliciting individuals interested in obtaining consumer credit; and

(B) does not include—

(i) any insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), any insured credit union (as defined in section 101(7) of the Federal Credit Union Act), or any depository institution which is eligible for deposit insurance under the Federal Deposit Insurance Act or the Federal Credit Union Act and has deposit insurance coverage provided by any State;

(ii) any lender approved by the Federal Housing Administration, Farmers Home Administration, or Department of Veterans Affairs;

(iii) any seller or servicer of mortgages approved by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; or

(iv) any consumer finance company, retail installment sales company, securities broker or dealer, real estate broker or real estate salesperson, attorney, credit card company, installment loan licensee, mortgage broker or lender, or insurance company if such person is—

(I) licensed by and subject to regulation or supervision by any agency of the United States or by the State in which the person seeking to utilize the services of the loan broker resides; and

(II) is acting within the scope of that license or regulation.

(2) ADVANCE FEE.—The term "advance fee"—

(A) means any fee (including any advance payment of interest or other fees for any extension of consumer credit) which is assessed or collected by a loan broker from any person seeking the consumer credit before the extension of such credit; and

(B) does not include—

(i) any amount that the loan broker can demonstrate is collected solely for the purpose of payment to unaffiliated, third party vendors for actual expenses incurred and payable before the extension of any consumer credit; or

(ii) any application fee or other charge assessed or collected—

(I) by a retail seller of property that is primarily for personal, family, or household purposes or automobiles;

(II) in connection with a consumer credit transaction in which a purchase money security interest arising under an installment sales contract (or any equivalent consensual security interest) is created or retained against any such property or automobile being sold by the retail seller to the person seeking the extension of credit; or

(III) in connection with a residential real estate transaction that is secured by a first lien on the property, including a purchase, refinancing, or consolidation of an extension of credit.

(3) CONSUMER; CREDIT.—The terms "consumer" and "credit" have the meanings given to such terms in section 103 of the Truth in Lending Act.

SEC. 3. PROHIBITION ON ADVANCE FEES.

(a) IN GENERAL.—No loan broker may receive an advance fee in connection with—

(1) arranging or attempting to arrange consumer credit;

(2) offering to find for any individual consumer credit; or

(3) advising any individual as to how to obtain consumer credit.

(b) PROHIBITION ON FALSE OR MISLEADING REPRESENTATIONS.—No loan broker may—

(1) make or use any false or misleading representations or omit any material fact in the offer or sale of the service of a loan broker; or

(2) engage, directly or indirectly, in any act that operates or would operate as fraud or deception upon any person in connection with the offer or sale of the services of a loan broker, notwithstanding the absence of reliance by the person to whom the loan broker's services are offered or sold.

SEC. 4. ENFORCEMENT BY THE FTC.

Any violation of section 3 of this Act shall—

(1) be treated as a violation of a rule of the Federal Trade Commission issued pursuant to section 18(a)(1)(B) of the Federal Trade Commission Act; and

(2) be subject to enforcement by the Federal Trade Commission under the enforcement and penalty provisions applicable to violations of such rules.

SEC. 5. CRIMINAL PENALTY.

(a) IN GENERAL.—Whoever knowingly violates section 3 shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

(b) CIVIL FORFEITURE.—Section 981(a)(1)(C) of title 18, United States Code, is amended—

(1) by striking "title or a violation" and inserting "title, a violation"; and

(2) by inserting ", or a violation of section 5(a) of the Advance Fee Loan Scam Prevention Act of 1992" before the period.

(c) NONMAILABLE MATTER.—For purposes of section 3005(a) of title 39, United States Code, a violation of section 3 by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations.

MORTGAGE BANKERS
ASSOCIATION OF AMERICA,
Washington, DC, August 3, 1992.

Hon. JOSEPH I. LIEBERMAN,
502 Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR: The Mortgage Bankers Association of America would like to express its support for S. 2578, as amended. The "Advance Fee Loan Scam Prevention Act of 1992" would prohibit lenders or brokers from accepting upfront fees in certain credit transactions. The purpose of this legislation is to prevent situations where fees are collected from consumers, but credit is never extended.

We believe that the amendment to that legislation, which provides an exception from the legislation's coverage for first lien residential mortgage transactions, appropriately narrows the scope of this legislation to those areas of consumer credit where abuses have occurred. As introduced, the legislation provides definitions that exclude lenders or brokers who are federally or state licensed or regulated. Furthermore, the legislation allows a lender or broker to collect a fee where that fee will be paid for a third party service, such as a real estate appraisal fee or a charge for a credit report.

This legislation and these provisions of the bill appropriately recognize the nature of the mortgage lending business, as well as the fact that existing Federal statutes, notably Truth in Lending and the Real Estate Settlement Procedures Act, provide for significant disclosures and mandatory provision of information regarding fees and other elements of the mortgage transaction.

MBA supports this legislation and appreciates your addressing the concerns of the

mortgage banking industry in the development of this legislation, so as not to impede the operation of the mortgage application process.

Sincerely,

MICHAEL J. FERRELL.•

By Mrs. KASSEBAUM:

S.J. Res. 38. A joint resolution designating March 20, 1993, as "National Quilting Day"; to the Committee on the Judiciary.

NATIONAL QUILTING DAY

Mrs. KASSEBAUM. Mr. President, I rise today to introduce a resolution to designate March 20, 1993, as "National Quilting Day."

The story of quilts is the story of the early American pioneers and of our country's heritage. During the westward migration, quilts served as shelter when draped as tents or hung as room dividers, as shrouds for death, and for some, quilts served as luggage as they bound their possessions in them in preparation for the journey westward.

By the mid-1850's, women had begun quilting for hire, charging a fee to customers who supplied the patchwork materials. Yet women continued the tradition of combining needlework with social activities, to welcome newcomers to towns and to build strong bonds of friendship. These ladies' social clubs flourished in Kansas and elsewhere providing a social network for quiltmaking activities that continues to the present day.

The art of quiltmaking found its way into the 20th century as Eleanor Roosevelt incorporated them into the New Deal. Under the provisions of Work Projects Administration, hundreds of women learned the art of quiltmaking to combat the economic hardships brought on by the Depression. Later these quilting projects were integrated into the war effort upon the outbreak of World War II.

During the 1970's, quilting became an important focus in feminist art, literature, and history, and was seen as a traditional woman's art form with important contributions to society and culture. The American bicentennial celebration in 1976 broadened the popular interest in quilts as a link to both craftsmanship and history.

Mr. President, I ask my colleagues to cosponsor this resolution and thus pay tribute to the thousands of quilters in the United States.

ADDITIONAL COSPONSORS

S. 1

At the request of Mr. KENNEDY, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Iowa [Mr. HARKIN], the Senator from Utah [Mr. HATCH], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 1, a bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes.

S. 3

At the request of Mr. BOREN, the names of the Senator from Connecticut [Mr. DODD], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 3, a bill entitled the "Congressional Spending Limit and Election Reform Act of 1993".

S. 4

At the request of Mr. HOLLINGS, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 4, a bill to promote the industrial competitiveness and economic growth of the United States by strengthening and expanding the civilian technology programs of the Department of Commerce, amending the Stevenson-Wydler Technology Innovation Act of 1980 to enhance the development and nationwide deployment of manufacturing technologies, and authorizing appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes.

S. 7

At the request of Mr. DOLE, the names of the Senator from Montana [Mr. BURNS], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 7, a bill to amend the Federal Election Campaign Act of 1971 to reduce special interest influence on elections, to increase competition in politics, to reduce campaign costs, and for other purposes.

At the request of Mr. MCCONNELL, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 7, supra.

S. 9

At the request of Mr. MCCAIN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 9, a bill to grant the power to the President to reduce budget authority.

S. 10

At the request of Mr. CRAIG, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Carolina [Mr. THURMOND], the Senator from Alaska [Mr. STEVENS], the Senator from Virginia [Mr. WARNER], the Senator from New Hampshire [Mr. SMITH], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Utah [Mr. BENNETT] were added as cosponsors of S. 10, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the adoption of flexible family leave policies by employers.

S. 11

At the request of Mr. BIDEN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 11, a bill to combat violence and crimes against women on the streets and in homes.

S. 15

At the request of Mr. ROTH, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 15, a bill to establish a Commission on Government Reform.

S. 26

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 26, a bill to amend the Internal Revenue Code of 1986 to end deferral for United States shareholders on income of controlled foreign corporations attributable to property imported into the United States.

S. 27

At the request of Mr. SARBANES, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Florida [Mr. GRAHAM], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 27, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 30

At the request of Mr. MCCAIN, the names of the Senator from Washington [Mr. GORTON], the Senator from Mississippi [Mr. LOTT], the Senator from Virginia [Mr. WARNER], the Senator from Alaska [Mr. STEVENS], the Senator from Nevada [Mr. BRYAN], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 30, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 31

At the request of Mr. MCCAIN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 31, a bill to amend title XVIII of the Social Security Act to repeal the reduced Medicare payment provision for new providers.

S. 67

At the request of Mrs. KASSEBAUM, the names of the Senator from Utah [Mr. HATCH], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 67, a bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 81

At the request of Mr. NICKLES, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 81, a bill to require analysis and estimates of the likely impact of Federal legislation and regulations upon the private sector and State and local governments, and for other purposes.

S. 88

At the request of Mr. LUGAR, the names of the Senator from Utah [Mr. BENNETT], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 88, a bill to amend the Na-

tional School Lunch Act to remove the requirement that schools participating in the school lunch program offer students specific types of fluid milk, and for other purposes.

S. 103

At the request of Mr. NICKLES, the names of the Senator from Utah [Mr. BENNETT], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 103, a bill to fully apply the rights and protections of Federal civil rights and labor laws to employment by Congress.

S. 107

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island [Mr. CHAFEE] was withdrawn as a cosponsor of S. 107, a bill to mandate a study of the effectiveness of a National Drug Strategy and to provide for an accounting of funds devoted to its implementation, and for other purposes.

S. 152

At the request of Mr. PRESSLER, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 152, a bill to amend the Mount Rushmore Commemorative Coin Act to conform to the intent of Congress.

S. 164

At the request of Mr. DASCHLE, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 164, a bill to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, and for other purposes.

S. 171

At the request of Mr. GLENN, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 171, a bill to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes.

S. 178

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 178, a bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition.

S. 179

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 179, a bill to tax 9 millimeter, .25 caliber, and .32 caliber bullets.

S. 185

At the request of Mr. GLENN, the names of the Senator from Colorado [Mr. CAMPBELL], the Senator from Ohio [Mr. METZENBAUM], the Senator from New Mexico [Mr. BINGAMAN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Maryland [Ms. MIKULSKI], the Senator from Vermont [Mr. JEFFORDS], the Senator from Nevada [Mr. BRYAN], the Senator from Delaware [Mr. BIDEN], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 185, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the nation, to protect such employees from improper political solicitations, and for other purposes.

S. 186

At the request of Mr. REID, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 186, a bill to require reauthorizations of budget authority for Government programs at least every 10 years, to provide for review of Government programs at least every 10 years, and for other purposes.

S. 210

At the request of Mr. WOFFORD, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 210, a bill to provide for cost-of-living adjustments for pay and retirement benefits for Members of Congress and certain senior Federal officials to be limited by the amount of social security cost-of-living adjustments, and for other purposes.

S. 214

At the request of Mr. THURMOND, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alaska [Mr. STEVENS], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 214, a bill to authorize the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 222

At the request of Mr. WELLSTONE, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 222, a bill to require the Commissioner of Food and Drugs to collect information regarding the drug RU-486 and review the information to determine whether to approve RU-486 for marketing as a new drug, and for other purposes.

S. 235

At the request of Mr. REID, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 235, a bill to limit State taxation of certain pension income, and for other purposes.

S. 236

At the request of Mr. MCCAIN, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 236, a bill to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

S. 254

At the request of Mr. JOHNSTON, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 254, a bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil or refined petroleum products.

S. 257

At the request of Mr. BUMPERS, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 257, a bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

S. 261

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 261, a bill to protect children from exposure to environmental tobacco smoke in the provision of children's services, and for other purposes.

S. 262

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 262, a bill to require the Administrator of the Environmental Protection Agency to promulgate guidelines for instituting a nonsmoking policy in buildings owned or leased by Federal agencies, and for other purposes.

SENATE JOINT RESOLUTION 11

At the request of Mr. SARBANES, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Hawaii [Mr. AKAKA], the Senator from Michigan [Mr. LEVIN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from South Carolina [Mr. THURMOND], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from California [Mrs. BOXER], the Senator from Rhode Island [Mr. PELL], the Senator from Virginia [Mr. WARNER], the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. SASSER], the Senator from Kansas [Mr. DOLE], the Senator from Louisiana [Mr. BREAUX], the Senator from Connecticut [Mr. DODD], the Senator from California [Ms. FEINSTEIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Arkansas [Mr. BUMPERS], the Senator from New York [Mr. MOYNIHAN], the Senator from Virginia [Mr. ROBB], the Senator from Maine [Mr. MITCHELL], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 11, a joint resolution to designate May 3, 1993, through

May 9, 1993, as "Public Service Recognition Week".

SENATE JOINT RESOLUTION 20

At the request of Mr. BRYAN, the names of the Senator from Utah [Mr. BENNETT], the Senator from Rhode Island [Mr. PELL], the Senator from Delaware [Mr. BIDEN], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 20, a joint resolution to designate February 7, 1993, through February 13, 1993, and February 6, 1994, through February 13, 1994, as "National Burn Awareness Week".

SENATE JOINT RESOLUTION 21

At the request of Mr. THURMOND, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Maryland [Mr. SARBANES], the Senator from Michigan [Mr. LEVIN], the Senator from Ohio [Mr. METZENBAUM], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Alaska [Mr. STEVENS], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 21, a joint resolution to designate the week beginning September 19, 1993, as "National Historically Black Colleges and Universities Week".

SENATE JOINT RESOLUTION 22

At the request of Mr. SPECTER, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Tennessee [Mr. SASSER], the Senator from Nevada [Mr. BRYAN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Alabama [Mr. SHELBY], the Senator from Michigan [Mr. LEVIN], the Senator from Arizona [Mr. DECONCINI], the Senator from Maryland [Mr. SARBANES], the Senator from Wisconsin [Mr. KOHL], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Hawaii [Mr. INOUYE], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Rhode Island [Mr. PELL], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Michigan [Mr. RIEGLE], the Senator from Connecticut [Mr. DODD], the Senator from California [Ms. FEINSTEIN], the Senator from Delaware [Mr. BIDEN], the Senator from Ohio [Mr. GLENN], the Senator from Alabama [Mr. HEFLIN], the Senator from Delaware [Mr. ROTH], the Senator from North Carolina [Mr. HELMS], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Georgia [Mr. COVERDELL], the Senator from Virginia [Mr. WARNER], the Senator from Missouri [Mr. DANFORTH], the Senator from South Dakota [Mr. PRESSLER], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of Senate Joint Resolution 22, a joint resolution designating March 25, 1993 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

SENATE JOINT RESOLUTION 27

At the request of Mr. MOYNIHAN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 27, a joint resolution providing for the appointment of Hanna Holborn Gray as a citizen regent of the Board of Regents of the Smithsonian Institution.

SENATE JOINT RESOLUTION 28

At the request of Mr. MOYNIHAN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 28, a joint resolution to provide for the appointment of Barber B. Conable, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution.

SENATE JOINT RESOLUTION 29

At the request of Mr. MOYNIHAN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 29, a joint resolution providing for the appointment of Wesley Samuel Williams, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution.

SENATE JOINT RESOLUTION 30

At the request of Mr. D'AMATO, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Virginia [Mr. WARNER], the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Wisconsin [Mr. KOHL], the Senator from Tennessee [Mr. SASSER], the Senator from Illinois [Mr. SIMON], the Senator from Connecticut [Mr. DODD], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Pennsylvania [Mr. SPECTER], the Senator from California [Ms. FEINSTEIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Nevada [Mr. REID], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Washington [Mrs. MURRAY], the Senator from Maine [Mr. MITCHELL], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 30, a joint resolution to designate the weeks of April 25 through May 2, 1993, and April 10 through 17, 1994, as "Jewish Heritage Week".

SENATE RESOLUTION 13

At the request of Mrs. KASSEBAUM, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Resolution 13, a resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes.

SENATE RESOLUTION 35

At the request of Mr. LAUTENBERG, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Michigan [Mr. LEVIN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of Senate Resolution 35, a resolution expressing the sense of the Senate concerning systematic rape in the conflict in the former Socialist Federal Republic of Yugoslavia.

SENATE RESOLUTION 49—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. KENNEDY, from the Committee on Labor and Human Resources, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 49

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Labor and Human Resources is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $5,412,714, of which amount not to exceed $30,900 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $5,530,058, of which amount not to exceed $30,900 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 50—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 50

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 1993, through February 29, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or non-reimbursable, basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 29, 1994, under this resolution shall not exceed $3,386,083, of which amount not to exceed $1,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $3,458,110, of which amount not to exceed $1,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 29, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 51—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON ARMED SERVICES

Mr. NUNN, from the Committee on Armed Services, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 51

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $3,132,733, of which amount (1) not to exceed $24,300 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $3,200,710, of which amount (1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 29, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 52—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE, from the Select Committee on Indian Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 52

Resolved, That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rules XXV of such rules, including holding hearings, reporting such hearings, making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Select Committee on Indian Affairs is authorized from March 1, 1993 through February 28, 1994, and March 1, 1994 through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the Select Committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $1,197,940, of which amount not to exceed $4,846 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $7,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period of March 1, 1994 through February 28, 1995, expenses of the Committee under this resolution, shall not exceed $1,221,872, of which amount (1) not to exceed $4,846 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $7,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Committee, except that vouchers shall not be required

for the (1) disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the Committee from March 1, 1993 through February 28, 1994, and March 1, 1994 through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 53—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAUCUS, from the Committee on Environment and Public Works, reported the following original resolution; which was referred to the Committee on rules and Administration:

S. RES. 53

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Environment and Public Works is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $2,874,715, of which amount (1) not to exceed $8,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $2,874,715, of which amount (1) not to exceed $8,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 54—COMMENDING PRESIDENT BUSH ON CONCLUSION OF THE START II TREATY

Mr. MCCAIN (for himself, Mr. DOLE, and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 54

Whereas on January 3, 1993, President George Bush and President Boris Yeltsin signed the Treaty on Further Reduction and Limitation of Strategic Offensive Arms (START II);

Whereas, as a result of the implementation of the START I and START II treaties, the immediate threat of nuclear war will be reduced by creating a more stable mix of nuclear weapons between the world's two foremost nuclear powers;

Whereas the START treaties will eliminate heavy ICBMs and multiple-warhead ICBMs, weapons which have long been the most destabilizing weapons associated with the East-West arms race;

Whereas the threat of a first strike in the event of renewed hostilities with the former Soviet Union would be greatly reduced;

Whereas nuclear weapons remain a central element of United States force structure and an essential element of its national security;

Whereas the START II Treaty allows the United States to maintain its nuclear triad with a more stable mix of weapons while maintaining United States security in the event of political instability in Russia; and

Whereas the START II Treaty continues the stringent verification regime of the first START agreement, thereby reducing the risk of conscious Russian non-compliance: Now, therefore, be it

Resolved, That the Senate—

(1) commends George Bush on the successful conclusion of the START II Treaty;

(2) having received the START II Treaty from the President, intends to take up the Treaty at the earliest possible moment in pursuit of its Constitutional duty to advise and consent to the ratification of treaties;

(3) calls on President Clinton to encourage ratification of START II by the Russian Parliament;

(4) calls on President Clinton to encourage the ratification of START I by the parliaments of Belarus and Ukraine; and

(5) calls on President Clinton to support appropriate forms and levels of assistance to the republics of the former Soviet Union as a means to secure the timely implementation of the START I and START II treaties.

• Mr. MCCAIN. Mr. President, with the conclusion of the START II, the threat of nuclear war has been greatly reduced and our relationship with the Republics of the former Soviet Union reestablished on a mutually more secure basis. For this historic achievement we owe President George Bush, and I rise today to introduce a resolution, on behalf of myself, Senator DOLE and Senator LUGAR, commending him for his efforts.

George Bush and his predecessor, Ronald Reagan, cannot take sole responsibility for ending the cold war. We owe that victory to many American policy makers, from Paul Nitze and the founders of American post World War II foreign policy through successive administrations since the end of World War II.

We owe victory to the millions of service men and women who stood watch in Europe for over half a century. They prepared to fight a war of apocalyptical proportions in the cause of freedom and because of their commitment to freedom and excellence, war never came to the heart of Europe.

Finally, we owe victory to the American taxpayer who sacrificed in the name of peace and freedom.

George Bush and Ronald Reagan can be given credit, however, for renewing the American commitment to winning the cold war at a crucial point in the history of American foreign policy. Their efforts layed the ground for this fourth in a series of treaties concluded in the Reagan-Bush era that makes our world more secure. George Bush can also be given credit for wrestling successfully with the complex issues of arms control, where every stroke of the pen carries implications for American national security.

The START II treaty itself is a testament to President Bush's understanding of American security interests. There is no need to go over all the details of the treaty. In the weeks to come the Senate will be formally offered its advice and consent to ratification of the treaty. However, before this process begins in earnest and abstraction and detail separate American security from the individuals who did such a great deal to guarantee it, I would like to mention some of its most salient aspects. They are the aspects of the treaty outlined in the resolution.

The START II treaty will eliminate heavy ICBM's and multiple-warhead

ICBM's and cut strategic nuclear forces by two-thirds by the year 2003. The reductions create a more stable mix of nuclear weapons and greatly reduce the possibility of a first strike by Russia in the event of renewed hostilities.

The terms of the treaty recognize the fact that nuclear weapons remain a central element of U.S. force structure and an essential element of our national security. It maintains our commitment to the security of Europe and recognizes that for the foreseeable future, tactical nuclear weapons on air, sea, and land will be a part of this commitment.

Most importantly, the treaty reflects George Bush's understanding that effective arms control is best measured in terms of security, not the reduction of weapons.

If the recognition of George Bush's achievement is threatened by the necessarily complex examination of the treaty ahead, it is also threatened by a view of history that sees developments as impersonal and inevitable. There is nothing impersonal or inevitable about the end of the cold war. There should be no mistake: History is made by great men. George Bush seized upon the opportunities provided him vis-a-vis the Soviet Union and made history.

Following the coup attempt in August 1991, George Bush took advantage of the weakness of regressive forces in the Soviet Union to make unilateral changes in American nuclear forces. Among other steps he announced on September 27, 1991, he took American strategic bombers off alert, announced the withdrawal of nuclear weapons from surface ships and attack submarines, and announced the intent to destroy nuclear artillery shells and Lance missile warheads deployed in Europe. Mikhail Gorbachev responded by offering his own unilateral measures.

In December 1991, George Bush was offered another opportunity to secure a safer world when the Soviet Union collapsed and became a collection of 12 independent Republics. In response, George Bush announced on January 28, 1992, the cancellation of the small ICBM program and capped the B–2 program at 20 aircraft. It was once again the Russians who responded to George Bush's initiatives. The following day Boris Yeltsin announced a series of unilateral measures affecting Russian nuclear posture.

In response to both crises, George Bush also sought bilateral agreement on the elimination of the most destabilizing weapons of the cold war, multiple warhead intercontinental ballistic missiles.

The culmination of these initiatives was the announcement on January 3, 1993, that Boris Yeltsin and George Bush had reached agreement on START II.

President Clinton has repeatedly emphasized the need for continuity and bipartisanship in American foreign policy. He is right to do so. In the area of arms control, he would be well advised to continue the policies of President George Bush.

George Bush is now back in the "grandfather business," but he left Washington having secured a more stable world where, as he said so many times, our grandchildren will not have to live with constant threat of nuclear war.●

SENATE RESOLUTION 55—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 55

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994 through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable, or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $5,603,819, of which amount (1) not to exceed $417,926 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $2,470 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $5,213,729, of which amount (1) not to exceed $49,326 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $2,470 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. (a) The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate.

(1) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of government funds in transactions, contracts, and activities of the government or of government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public.

(2) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(3) organized criminal activities which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(4) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud and the use of offshore banking and corporate facilities to carry out criminal objectives;

(5) The efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(A) The effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(B) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(C) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(D) legislative and other proposals to improve these methods, processes, and relationships;

(6) The efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(A) the collection and dissemination of accurate statistics on fuel demand and supply;

(B) the implementation of effective energy conservation measures;

(C) the pricing of energy in all forms;

(D) coordination of energy programs with State and local government;

(E) control of exports of scarce fuels;

(F) the management of tax, import, pricing, and other policies affecting energy supplies;

(G) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(H) the allocation of fuels in short supply by public and private entities;

(I) the management of energy supplies owned or controlled by the Government;

(J) relations with other oil producing and consuming countries;

(K) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(L) research into discovery and development of alternative energy supplies; and

(7) the efficiency and economy of all branches and functions of government with particular reference to the operations and management of Federal regulatory policies and programs: *Provided*, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(b) Nothing contained in this section shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(c) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, is authorized, in its, his, or their discretion (1) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (4) to administer oaths, and (5) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(d) All subpoenas and related legal processes of the committee and its subcommittee authorized under S. Res. 62 of the One Hundredth Second Congress, second session, are authorized to continue.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery keeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 6. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 56—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON FINANCE

Mr. MOYNIHAN, from the Committee on Finance, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 56

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 1933, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $4,185,586, of which amount (1) not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $4,289,738, of which amount (1) not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments of the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 57—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON THE BUDGET

Mr. SASSER, from the Committee on the Budget, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 57

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion—

(1) to make expenditures from the contingent fund of the Senate,

(2) to employ personnel, and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $3,424,833, of which amount—

(1) not to exceed $20,000 may be expended for the procurement of the services of individual paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Budget is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion—

(1) to make expenditures from the contingent fund of the Senate,

(2) to employ personnel, and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $3,424,833, of which amount—

(1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and

(2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(i) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $3,499,838, of which amount—

(1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(j) of the Legislative Reorganization Act of 1946, as amended), and

(2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for—

(1) the disbursement of salaries of employees paid at an annual rate,

(2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate,

(3) the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate,

(4) payments to the Postmaster, United States Senate,

(5) the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or

(6) the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE RESOLUTION 58—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS, from the Committee on Small Business, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 58

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Small Business is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2(a) The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $1,137,330, of which amount (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $1,161,856, of which (1) not to exceed $10,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 59—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES FOR THE COMMITTEE ON VETERANS' AFFAIRS

Mr. ROCKEFELLER, from the Committee on Veterans' Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 59

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Veterans' Affairs is authorized from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1993, through February 28, 1994, under this resolution shall not exceed $1,253,028, of which not to exceed $3,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1994, through February 28, 1995, expenses of the committee under this resolution shall not exceed $1,253,028, of which not to exceed $3,000 may be expended for training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1994, and February 28, 1995, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for: (1) The disbursement of salaries of employees paid at an annual rate, or (2) the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1993, through February 28, 1994, and March 1, 1994, through February 28, 1995, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

AMENDMENTS SUBMITTED

FAMILY AND MEDICAL LEAVE ACT OF 1993

GRASSLEY (AND OTHERS) AMENDMENT NO. 3

(Ordered to lie on the table.)

Mr. GRASSLEY (for himself, Mr. DURENBERGER, and Mr. DANFORTH) submitted an amendment intended to be proposed by them to the bill (S. 5) to grant family and temporary medical leave under certain circumstances, as follows:

In section 107(a) of the bill, strike paragraphs (2) through (4) and insert after paragraph (1) the following:

(2) JURISDICTION.—

(A) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of—

(i) the employees; or

(ii) the employees and other employees similarly situated.

(B) RELATIONSHIP WITH ARBITRATION PROCEDURES.—No court shall have jurisdiction to render a judgment in such an action unless the court complies with the requirements of paragraphs (3) and (4) relating to arbitration and continuation of such an action after arbitration.

(3) ARBITRATION.—

(A) SENSE OF CONGRESS.—It is the sense of Congress that parties with a dispute regarding rights provided under this title should attempt to resolve the dispute without resort to litigation.

(B) ARBITRATION.—

(i) IN GENERAL.—The parties to an action brought under paragraph (2) may, if the parties agree, submit the dispute to nonbinding arbitration in accordance with this paragraph.

(ii) NOTIFICATION.—Each judge assigned to an action brought under paragraph (2) shall conduct a conference with the parties, and with counsel for the parties unless inappropriate, within 90 days after the complaint relating to the action is filed, to notify the parties of the availability of arbitration under this paragraph that may be used in lieu of litigation to resolve the complaint.

(iii) REQUEST.—Not later than 30 days after receiving the notification described in clause (ii), the parties may file a request for arbitration with the Secretary regarding the complaint. Such request shall include a copy of the complaint. The Secretary shall by regulation specify procedures for filing the request.

(iv) SELECTION OF ARBITRATOR.—

(I) LIST.—Not later than 10 days after receiving such a request regarding an eligible employee and an employer, the Secretary shall make available to the employee and employer a list of not fewer than seven arbitrators. Such list shall include, at a minimum, two names provided by the Federal Mediation and Conciliation Service. Each arbitrator on the list shall possess such qualifications as the Secretary, in consultation with the Federal Mediation and Conciliation Service and the Administrative Conference of the United States, shall by regulation specify.

(II) SELECTION.—The eligible employee and employer shall choose a mutually acceptable arbitrator (referred to in this paragraph as the "arbitrator") from the list provided by the Secretary. If the employee and employer are unable to agree on an arbitrator, the Secretary shall appoint the arbitrator.

(III) HEARING DATE.—The eligible employee and employer shall schedule a mutually acceptable date to conduct a hearing with the arbitrator under subparagraph (C), which hearing shall take place not more than 60 days after the date of choosing the arbitrator. The Secretary or the arbitrator may grant an extension of the hearing date for good cause shown.

(C) HEARING.—

(i) IN GENERAL.—The arbitrator shall conduct a hearing regarding the complaint referred to in subparagraph (B)(ii) in accordance with the procedures set forth in this subparagraph.

(ii) DISCOVERY.—The eligible employee and employer shall be entitled to make appropriate requests for discovery prior to the hearing. The Secretary, in consultation with the Federal Mediation and Conciliation Service and the Administrative Conference of the United States, shall by regulation specify the appropriate scope for the discovery requests. The ruling of the arbitrator on the discovery requests shall be final, binding, and nonreviewable.

(iii) EVIDENCE.—The arbitrator shall preside over the hearing and take into consideration written and oral evidence on the record as presented by the eligible employee and the employer. The arbitrator may utilize the Federal Rules of Evidence as a guideline for determining the admissibility of evidence during the hearing, but the Federal Rules of Evidence shall not be determinative.

(iv) DECISION.—The arbitrator shall issue a written decision to the eligible employee and the employer not later than 30 calendar days after the last day of the hearing. The decision shall be final and nonreviewable.

(D) REMEDY.—

(i) IN GENERAL.—The remedies applicable to individuals who demonstrate a violation of a provision of sections 101 through 105 shall be such remedies as would be appropriate if awarded under paragraph (1).

(ii) FEES.—The arbitrator, in the discretion of the arbitrator, may award reasonable attorney's fees and arbitrator's fees to a prevailing party in a hearing brought under subparagraph (C).

(E) ACCEPTANCE OR REJECTION OF DECISION.—Not later than 30 days after receipt of a final decision under subparagraph (C), each of the parties shall give notice with respect to each claim that is the subject of the arbitration that the party accepts, or that the party rejects, the decision of the arbitrator. If any party rejects the decision with respect to such a claim, the parties shall continue with the action described in paragraph (2) with respect to such claim. Such action shall be a trial de novo.

(4) FEES AND COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the court in such an action may, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(B) ASSESSMENT IN ACTIONS CONTINUED AFTER ARBITRATION.—In any action continued after arbitration under paragraph (3)—

(i) an eligible employee who rejects the decision of the arbitrator under such paragraph shall pay the employer's costs, as set forth in section 1920 of title 28, United States Code, and attorney's fees, as set forth in subparagraph (D), with respect to a claim, that are incurred after the rejection of the decision if—

(I) with respect to a claim seeking monetary compensation (which compensation shall be calculated as the total of damages, equitable monetary relief, and interest, and attorney's fees attributable to arbitration, that are sought with respect to the claim), the employee fails to obtain a final judgment regarding the monetary compensation that is at least 10 percent greater than the monetary compensation awarded under the decision; or

(II) with respect to a claim seeking equitable relief not described in subclause (I), the employee fails to obtain equitable relief;

(ii) an employer who rejects such a decision shall pay such costs and fees, with respect to a claim, that are incurred after the rejection of the decision if—

(I) with respect to a claim seeking monetary compensation (as described in clause (i)(I)), the employer fails to obtain a final judgment regarding the monetary compensation that is at least 10 percent less than the monetary compensation awarded under the decision; or

(II) with respect to a claim seeking equitable relief not described in subclause (I), the employee obtains equitable relief;

(iii) if all of the parties reject the determination, no costs or attorney's fees shall be assessed against any party; and

(iv) the court may, in addition to any judgment, costs, and attorney's fees awarded in the action, allow reasonable expert witness fees to be paid by the nonprevailing party.

(C) LIMITATION IN ACTIONS CONTINUED AFTER ARBITRATION.—In any action continued after arbitration under paragraph (3)—

(i) the amount of costs and attorney's fees paid by a party under subparagraph (B) with respect to a claim shall not exceed the amount of the costs and attorney's fees of the party against whom the fees are assessed with respect to the claim; and

(ii) expert witness fees paid by the nonprevailing party shall not exceed the amount of the expert witness fees of the nonprevailing party.

(D) PROCEDURES FOR AWARDING FEES.—A party seeking an award of attorney's fees in an action described in paragraph (2) shall file an application for fees with the court before which the action is brought within 30 days after final judgment in the action involved. The application shall show that the party is eligible to receive an award under this section and the amount sought, including an itemized statement from any attorney appearing on behalf of the party that sets forth the actual time expended and the rate at which fees are computed. Within 30 days after service of the fee application upon the party against whom the fees are sought to be awarded, such party may file a response setting forth reasons why an award of fees would not be reasonable or why the amount of fees should be reduced.

(5) LIMITATIONS.—The right provided by paragraph (2) to bring an action by or on behalf of any employee shall terminate—

(A) on the filing of a complaint by the Secretary in an action under subsection (d) in which restraint is sought of any further delay in the payment of the amount described in paragraph (1)(A) to such employee by an employer responsible under paragraph (1) for the payment; or

(B) on the filing of a complaint by the Secretary in an action under subsection (b) in

which a recovery is sought of the damages described in paragraph (1)(A) owing to an eligible employee by an employer liable under paragraph (1), unless the action described in subparagraph (A) or (B) is dismissed without prejudice on motion of the Secretary.

(6) OTHER REVIEW.—No person may commence a civil action to enforce a right provided under this title except—

(A) in accordance with this section; or

(B) in an action brought under the Constitution.

In section 501(e) of the bill, strike "(3)" and insert "(4)".

CRAIG (AND OTHERS) AMENDMENT NO. 4

Mr. CRAIG (for himself, Mr. DOLE, Mr. HATCH, Mr. SIMPSON, Mr. GRASSLEY, Mr. BURNS, Mr. KEMPTHORNE, Mr. DOMENICI, Mr. COCHRAN, Mr. THURMOND, Mr. STEVENS, Mr. WARNER, Mr. SMITH, Mr. PRESSLER, and Mr. BENNETT) proposed an amendment to the bill S. 5, supra, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. FAMILY LEAVE CREDIT.

(a) CREDIT CREATED.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45A. FAMILY LEAVE CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the family leave credit for any employer for any taxable year is 20 percent of the qualified compensation with respect to an employee who is on family leave.

"(2) LIMITATIONS ON AVAILABILITY AND AMOUNT OF CREDIT.—

"(A) FEWER THAN 500 EMPLOYEES.—An employer is not entitled to a family leave credit for any taxable year unless—

"(i) in the case of an employer that is in its first taxable year, the employer had fewer than 500 employees at the close of that year, and

"(ii) in the case of other employers, the employer averaged fewer than 500 employees for its preceding taxable year.

An employer is considered to average fewer than 500 employees for a taxable year if the sum of its employees on the last day of each quarter in that year divided by the number of quarters is fewer than 500.

"(B) DOLLAR CAP ON QUALIFIED COMPENSATION.—The amount of qualified compensation that may be taken into account with respect to an employee may not exceed $100 per business day.

"(C) MAXIMUM PERIOD OF FAMILY LEAVE.—No family leave credit will be available to the extent that the period of family leave for an employee exceeds 12 weeks, defined as 60 business days, in any 12-month period.

"(D) ADDITIONAL LIMITATION ON LEAVE FOR PERSONAL SERIOUS HEALTH CONDITIONS.—Leave from an employer in connection with a qualified purpose described in subsection (b)(2)(D) will qualify as family leave only if the employee on leave has no unused sick, disability or similar leave.

"(b) FAMILY LEAVE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, an employee is considered to be on 'family leave' if the employee is on leave from the employer in connection with any qualified purpose.

"(2) QUALIFIED PURPOSES.—The term 'qualified purposes' means—

"(A) the birth of a child,

"(B) the placement of a child with the employee for adoption or foster care,

"(C) the care of a child, parent or spouse with a serious health condition, or

"(D) the treatment of a serious health condition which makes the employee unable to perform the functions of his or her position.

"(3) DEFINITIONS OF CHILD, PARENT AND SERIOUS HEALTH CONDITION.—

"(A) CHILD.—The term 'child' means an individual who is a son, stepson, daughter, stepdaughter, eligible foster child as described in sections 32(c)(3)(B)(iii) (I) and (II), or legal ward of the employee or employee's spouse, or a child of a person standing in loco parentis and who either has not reached the age of 19 by the commencement of the period of family leave or is physically or mentally incapable of caring for himself or herself.

"(B) PARENT.—The term 'parent' means an individual with respect to whom the employee would be considered a 'child' within the meaning of subparagraph (A) without regard to the age limitation.

"(C) SERIOUS HEALTH CONDITION.—The term 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves the inpatient care in a hospital, hospice or residential health care facility, or substantial and continuing treatment by a health care provider.

"(c) CREDIT REFUNDABLE.—In the case of so much of the section 38 credit as is attributable to the family leave credit—

"(1) section 38(c) will not apply, and

"(2) for purposes of this section, such credit will be treated as if it were allowed under subpart C of this part.

"(d) NONDISCRIMINATION REQUIREMENT.—The family leave credit is available to an employer for a taxable year only if the employer provides family leave to its employees for that year on a nondiscriminatory basis.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) IN GENERAL.—For purposes of this section—

"(A) EMPLOYER.—Except as otherwise provided in this subpart, the term 'employer' has the meaning provided by section 3306(a)(1) and (3).

"(B) EMPLOYEE.—The term 'employee' includes only permanent employees who have been employed by the employer for at least 12 months and have provided over 1000 hours of service to the employer during the 12 months preceding commencement of the family leave.

"(C) QUALIFIED COMPENSATION.—The term 'qualified compensation' means the greater of—

"(i) cash wages paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave, and

"(ii) cash wages that would have been paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave had the employee not taken the leave.

"(D) COMPUTATION.—For purposes of subparagraph (C)(ii), the amount of cash wages that would have been paid to the employee for any business day the employee is on family leave is the average daily cash wages of that employee for the four calendar quarters preceding the commencement of the family leave.

"(E) AVERAGE DAILY CASH WAGES.—For purposes of the computation described in subparagraph (D), an employee's average daily cash wages is his or her total cash wages for the period described in such subsection divided by the number of business days in that period.

"(F) BUSINESS DAY.—The term 'business day' includes any day other than a Saturday, Sunday or legal holiday.

"(2) EMPLOYMENT AND BENEFITS PROTECTION.—

"(A) IN GENERAL.—Leave taken under this section shall qualify an employer for a family leave credit only if—

"(i) upon return from such leave, the employee is entitled to be restored by the employer to the position of employment held by the employee when the leave commenced, or to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment;

"(ii) the taking of such leave does not result in the loss of any employment benefit accrued prior to the date on which the leave commenced; and

"(iii) the employer maintains coverage under any 'group health plan' (as defined in section 5000(b)(1)) for the duration of such leave, at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously during the leave period.

"(B) LIMITATION.—Nothing in this paragraph shall be construed to require an employer, as a condition of qualifying for a family leave credit, to entitle any employee taking leave to—

"(i) the accrual of any seniority or employment benefits during any period of leave; or

"(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

"(3) EXPECTATION THAT EMPLOYEE WILL RETURN TO WORK.—No family leave credit will be available for any portion of a period of family leave during which the employer does not reasonably believe that the employee will return from leave to work for the employer.

"(4) SPECIAL RULES.—Rules similar to the rules of section 52 shall apply for purposes of this section.

"(5) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including guidance relating to ensuring adequate employment and benefits protection and guidance to prevent abuse of this section.".

(b) CORPORATE ESTIMATED TAX PROVISIONS.—

(1) INCREASE IN ESTIMATED TAX.—

(A) IN GENERAL.—Subsection (d) of section 6655 of such Code (relating to amount of required installments) is amended—

(i) by striking "91 percent" each place it appears in paragraph (1)(B)(i) and inserting "97 percent",

(ii) by striking "91 PERCENT" in the heading of paragraph (2) and inserting "97 PERCENT", and

(iii) by striking paragraph (3).

(B) CONFORMING AMENDMENTS.—

(i) Clause (ii) of section 6655(e)(2)(B) of such Code is amended by striking the table contained therein and inserting the following new table:

"In the case of the following required installments:	The applicable percentage is:
1st	24.25
2nd	48.5
3rd	72.75

"In the case of the following required installments:	The applicable percentage is:
4th	97."

(ii) Clause (i) of section 6655(e)(3)(A) of such Code is amended by striking "91 percent" and inserting "97 percent".

(2) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(A) Clause (i) of section 6655(e)(2)(A) of such Code is amended—

(i) by striking "or for the first 5 months" in subclause (II),

(ii) by striking "or for the first 8 months" in subclause (III), and

(iii) by striking "or for the first 11 months" in subclause (IV).

(B) Paragraph (2) of section 6655(e) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the second required installment for such taxable year."

(C) The last sentence of section 6655(g)(3) of such Code is amended by striking "and subsection (e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall apply to taxable years beginning after December 31, 1996.

(B) The amendments made by paragraph (2) shall apply to taxable years beginning after December 31, 1992.

(c) COORDINATION WITH REFUND PROVISION.—For purposes of section 1324(b)(2) of title 31 of the United States Code, section 45A of the Internal Revenue Code of 1986 (as added by this Act) will be considered to be a credit provision of the Internal Revenue Code of 1954 enacted before January 1, 1978.

(d) CONFORMING AMENDMENTS.—

(1) Section 38 of such Code is amended by deleting the "plus" after subsection (b)(7) and "." after subsection (b)(8), by inserting ", plus" after subsection (b)(8), and by adding a new subsection (b)(9) to read as follows:

"(9) the family leave credit under section 45A."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45A. Family leave credit."

(e) EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this section shall apply to family leave that commences 90 days after the date of the enactment of this Act.

GORTON AMENDMENT NOS. 5 THROUGH 8

(Ordered to lie on the table.)

Mr. GORTON submitted four amendments intended to be proposed by him to the bill S. 5, supra; as follows:

AMENDMENT NO. 5

On page 8, strike lines 17 through 20, and insert the following:

(7) PARENT.—The term "parent" means an individual who was the biological parent, adoptive parent, legal guardian, or stepparent of an employee when the employee was a son or daughter.

On page 9, strike lines 13 through 16, and insert the following:

(12) SON OR DAUGHTER.—The term "son or daughter" means a biological or adopted child, a stepchild, a legal ward, or a child placed for adoption, who is—

On page 36, strike lines 12 through 15, and insert the following:

"(3) the term 'parent' means an individual who was the biological parent, adoptive parent, legal guardian, or stepparent of an employee when the employee was a son or daughter;

On page 37, strike lines 3 through 6, and insert the following:

"(6) the term 'son or daughter' means a biological or adopted child, a stepchild, a legal ward, or a child placed for adoption, who is—

AMENDMENT NO. 6

On page 13, between lines 12 and 13, insert the following:

(C) CONSTRUCTION.—No provision of this title shall be construed to require an employer, in providing leave under subsection (a)(1), to provide to an employee more than 12 workweeks of such leave in total during any 12-month period.

AMENDMENT NO. 7

On page 19, lines 11 and 12, strike "HIGHLY COMPENSATED EMPLOYEES" and insert "KEY PERSONNEL".

On page 19, line 15, strike "described in paragraph (2)" and insert "who is designated under paragraph (2)(A), or, if no employee is so designated, who is deemed to be designated under paragraph (2)(B)".

On page 20, strike lines 1 through 6, and insert the following:

(2) AFFECTED EMPLOYEES.—

(A) DESIGNATED EMPLOYEES.—

(i) IN GENERAL.—The employee may designate as key personnel up to 10 percent of the eligible employees of the employer at a facility, or employed within 75 miles of the facility.

(ii) BASIS.—An employer shall not designate key personnel on the basis of age, race, color, sex, or national origin, or for the purpose of evading the requirements of this title. No employer may designate an eligible employee as a member of the key personnel of the employer after the employee gives notice of intent to take leave pursuant to section 102.

(iii) MANNER.—Designations of employees as key personnel shall be in writing and shall be displayed in a conspicuous place described in section 109(a).

(iv) EFFECTIVE DATE.—Any designation made under this subparagraph shall take effect 30 days after the designation is issued and may be changed not more than once in any 12-month period.

(B) EMPLOYEES DEEMED TO BE DESIGNATED.—Until an employer designates key personnel under subparagraph (A), an eligible employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed shall be deemed to be designated as a member of the key personnel of the employer.

AMENDMENT NO. 8

On page 13, strike lines 14 through 24 and insert the following:

(1) REQUIREMENT OF NOTICE.—

(A) IN GENERAL.—

(i) NOTICE.—In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employer with not less than 30 days' written notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph.

(ii) DATES; SCHEDULE.—Such notice shall state the dates during which the employee intends to take leave or provide a schedule under which the employee intends to take intermittent or reduced leave.

(B) EXCEPTIONS.—The employee shall take the leave described in subparagraph (A)(i) in accordance with the dates or schedule stated in the notice unless—

(i) the birth is premature;

(ii) the employee must care for a son or daughter because the mother is so incapacitated due to the birth that the mother is unable to care for the son or daughter;

(iii) the employee takes physical custody of a child being placed for adoption at an unanticipated time and is unable to give notice 30 days in advance of such time; or

(iv) the employer and employee agree to alter the dates of leave, or the schedule of leave, stated in the notice.

(C) REVISED DATE OR SCHEDULE.—In a case referred to in subparagraph (B), the employee must give such notice of revised dates during which the employee intends to take the leave, or a revised schedule under which the employee intends to take the leave, as is practicable, but at least 1 workday of notice before the date the leave is to begin.

On page 14, line 13, insert "written" after "days'".

On page 14, line 18, after "practicable" insert the following: ", but at least 1 workday of notice before the date the leave is to begin".

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL RESEARCH, CONSERVATION, FORESTRY AND GENERAL LEGISLATION

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research, Conservation, Forestry and General Legislation will hold a hearing on food safety and Government regulation of coliform bacteria. The hearing will be held on Friday, February 5, 1993, at 10:30 a.m. in SR-332. Senator TOM DASCHLE will preside.

For further information please contact Ted Sullivan at 224-2321.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, February 2, 1993, at 10 a.m. to hold an open confirmation hearing on the nomination of R. James Woolsey to be Director of Central Intelligence.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup after the first rollcall after 2 p.m. on Tuesday, February 2, 1993. The markup will be held in the Reception Room.

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

ADDITIONAL STATEMENTS

THE 1992 GOLDEN APPLE AWARD WINNERS

• Ms. MURRAY. Mr. President, as our country turns to President Clinton's challenge to rebuild America, it will find that the foundation for this goal rests on our children. They are the bricks and mortar that hold our communities together. In his inaugural speech, the President declared that there is nothing that is wrong with America that cannot be cured with what is right about America. Today, I stand before Congress in praise of those who demonstrate what is right about America. These are the winners of Seattle's public broadcasting station KCTS's Golden Apple awards to outstanding schools and teachers, recognized for exceptional teaching and educational innovation. The awards were presented in conjunction with the Citizens Education Center; KSPS–TV, Spokane and KYVE–TV, Yakima.

The following are 1992 Golden Apple Award winners:

THE 1992 GOLDEN APPLE AWARD WINNERS

DIANE BOISEN, CENTENNIAL ELEMENTARY SCHOOL, MOUNT VERNON

Diane Boisen's experience with the Inclusion Program shows that developmentally disabled children can be mainstreamed into the classroom with positive results for everyone involved. Boisen worked closely with Centennial's developmental classroom teacher to bring three Down's Syndrome children into her 2nd grade class and then was involved in preparing the other kids to learn to be peer helpers. The children became adept at helping and guiding the Down's Syndrome children, while learning the importance of letting them complete activities by themselves. The children became wonderful supporters to not only the Down's children but to all of their peers. A sense of responsibility and achievement were the prizes for all of the students in Boisen's class.

SUE GILLELAND, PHANTOM LAKE ELEMENTARY SCHOOL, BELLEVUE

Sue Gilleland wants every student to share her enthusiasm for science and math, so she began two after-school programs to reach students—particularly females and ethnic minorities—most likely to avoid those subjects. In the past three years, the Math Club for Girls at Phantom Lake has proven to be a popular activity. Intermediate-aged girls are learning real life math skills while being encouraged to persevere in math and rise above the peer pressure and stereotyping of "smart" girls. Gilleland's work with the Family Science Program encourages whole families to get involved in hands-on science activities where technology becomes a nonthreatening tool for learning and having fun.

HENRY FRIEDMAN, CHAIRMAN OF THE WASHINGTON STATE HOLOCAUST EDUCATION RESOURCE CENTER, SEATTLE

To Henry Friedman, teaching about the Holocaust is not just another history lesson, but a proven way for students to study the moral and social implications of racism and hatred. In 1990, Friedman founded the Washington State Holocaust Education Resource Center and through his work with schools, discovered the need for proper Holocaust teaching methods and materials. To answer these needs, the Resource Center is working with the Superintendent of Public Instruction's office to develop a five-day lesson plan on the Holocaust for middle and high school students, and has been given a grant to produce a videotape for teachers on how to teach the Holocaust. The Resource Center also arranges for Holocaust survivors to go to schools and talk about their experiences with students. As one of these speakers, Friedman has spoken to thousands of students throughout Washington state, relating his experiences in hiding from the Nazis with his family for 17½ months under very severe conditions. His story hits home for his young audiences, as one student wrote after hearing Friedman, "The message I got from Holocaust survivor Mr. Friedman was very clear. Not to hate anyone for anything or any reason."

DANIEL JURDY, RAINIER BEACH HIGH SCHOOL, SEATTLE

"Mr. Jurdy teaches lessons in biology and lessons in life," says a student in one of his biology courses. Indeed, Jurdy says he sees science as a vehicle for teaching survival skills, particularly learning about team work. Jurdy is known for dedicating much of his evening and weekend time to helping students prepare for the advance Placement Biology Examination. In conjunction with the South Pacific Islanders Dropout Prevention Program, Jurdy set up a general science class aimed at sparking an interest in science among Pacific island students who had failed science more than once. Students excelled in the class, with all of them receiving an A or B at the end of the first quarter.

CRAIG MACGOWEN; GARFIELD HIGH SCHOOL, SEATTLE

At Garfield High, 91 percent of the school's 1,300 students enroll in science classes, and a look at Craig MacGowen's leadership in the Marine Science Program makes it evident why these classes are so popular. MacGowen's students have studied marine life on the beaches of the San Juan Islands and the geology of eastern Washington lakes, and—with fundraising efforts—have even gone as far as Australia, Ecuador, and Papua New Guinea. The students then visit elementary schools to begin fostering excitement about marine life and science. The Marine Science Program has attracted support from several organizations, including the Seattle Parks Department, Explorer Scouts, NOAA, and the University of Washington College of Fisheries.

JERRY DEAN NAUDITT, YWCA TRANSITION SCHOOL; SPOKANE

Motivating students to love learning is a challenge for any teacher. But in Jerry Dean Nauditt's classroom it is even more difficult since the students he teaches come from dysfunctional homes or are homeless. Jerry teaches 5th through 8th grade students at a transitional school run by Spokane School District and the YWCA. His students are often at varying stages in their academic development and he structures the curriculum to try to meet the needs of each individual. Nauditt's goal is to help these children, who come from homes where little or no support is offered, know that life can be better and that they can succeed. As one of Jerry's colleagues stated, "In a world where nobody much notices, Mr. Nauditt expresses his caring for these kids on a daily basis."

HILDA SHEPARD, ADAMS ELEMENTARY SCHOOL, YAKIMA

How do you make a child feel at home in the classroom when they don't speak the language? That is the challenge faced by Hilda Shepard in her work as a bilingual teacher's aide at Adams Elementary School. Over the seven years Hilda has worked with the Bilingual, Migrant, and Chapter I programs, she stresses the importance of learning, self esteem, and parental involvement in education despite the barrier of language. Along with her regular classroom duties, Hilda does all translations of report cards, school newsletters, and parent-teacher conferences, facilitating communication between teachers and the families of Spanish speaking students. She also works many extra hours helping her students' families find jobs, housing, food, medical care, and legal assistance. As a colleague noted, "Hilda's instruction of English as a second language is outstanding. Her students feel important and worthwhile. They are proud of their heritage while learning a new language and culture." Hilda says her real reward will come in 1993, when she will see the first of her students graduate from high school.

ORONDO SCHOOL DISTRICT, ORONDO

With just 250 students, the Orondo School District, located north of Wenatchee, has made sweeping changes that have energized staff, students, parents, and the community. In just two years, student achievement scores have climbed from the 30th percentile to the 62nd percentile. This change reflects the innovative new programs now in place at Orondo, including preschool for all 3- and 4-year-olds, enrichment and extension activities available after school, and a 200-day school year with the extra 20 days falling in July and attended by 90 percent of the students. The district boasts a model drop-out retrieval program, small class sizes, a home liaison program to help families, and a program that gives each student in grades 1 to 6 a half-hour of computer instruction every day. The Orondo School District is truly the heart of its community, with school open literally all day every day, offering learning activities for people of all ages.

POWERFUL SCHOOLS, SEATTLE

Powerful Schools is a diverse group of parents, staff and neighbors of Hawthorne, Muir, Orca, and Whitworth elementary schools who have joined with members of the Mount Baker Community Club and the Co-

lumbia City Neighbors Association to create world-class schools in Seattle's Rainier Valley. Their goals are simple: to improve student performance for all children, strengthen neighborhoods through expanded use of school facilities, and to serve as a model to empower neighbors, parents, and students in creating world-class schools. Powerful Schools promotes cooperation—rather than competition—between schools and creatively pools resources to benefit all those involved. In its first two years of operation, Powerful Schools has achieved success through innovative programs like "The Parent Involvement Incentive Program" where each elementary school received funding to hire and train 10 low-income parents to work in the school 30 hours a week as library technicians, aides in the kitchen and classrooms, and in the computer lab. Results of this program include a decrease in absenteeism, a dramatic decrease in discipline referrals, and a significant improvement in academic performance. Powerful School's approach of bringing people together, utilizing community talents to develop activities such as after-school enrichment programs and homework centers, and emphasizing parent involvement is a visionary approach to school reform.

SKYLINE ELEMENTARY SCHOOL, FERNDALE

At Skyline Elementary School, you rarely see a child studying alone. Children are usually working in pairs or groups. Learning through teamwork is Skyline's vision of the future of education and they have developed a cooperative learning model which has been hailed by education experts as the best in the country. The model uses teachers as facilitators of learning, requires children to be actively involved in the learning experience, and encourages students to work together to accomplish goals. A major benefit of this system has been its success with the Lummi Indian students. Since their own culture is cooperative in nature, the model has been effective in raising their level of achievement. Other changes in staff development, as well as the extensive use of crossage and peer tutoring programs have made Skyline into a school that is positive and open to change when it is demonstrated that the change will result in improved learning opportunities for its students.•

AVIATION INDUSTRY SHAKEOUT

• Mr. D'AMATO. Mr. President, military aviation has reached a crossroads. At no time since the earliest days of flight have fewer production lines turned out fewer aircraft. Manufacturers with histories stretching back many decades are collapsing or being absorbed in an industry shakeout that will probably leave us with only two or three aircraft producers by the end of the decade.

Congress has sought, with some success, to ease the pain for aerospace firms. We've tried stretchouts, remanufacturing, reengineering, rewinging, reskinning, and service life extension programs. All have been costly. All have been temporary.

Let me suggest another strategy to my colleagues: pick a winner. It would be far better for industry and the services if we had one hot line mass producing a given type of aircraft, than a number of struggling lines delivering a variety of similar aircraft at low rates. Low rate production, and the resulting high unit costs, has, over the last 5 years, forced the Navy to cancel the A–6, F–14, EA–6B, and E–2C, pushing Grumman out of the aircraft business. Low rate production's cousin, silver bullet procurements, leave aircraft programs vulnerable to the same high unit cost problems that buried the B–2.

In my opinion, the most obvious winner is the F–22 advanced tactical fighter. It was originally a joint program, and bidders were required to develop Air Force and Navy variants. The F–22 should become the F–4 of the late 1990's, in other words, the backbone of its generation of tactical aviation. The efficiencies of scale achievable if the requirements of the Air Force, Navy, and Marines were pooled would drive the unit cost of the F–22 down to well within affordable limits. The same cannot be said of the multirole fighter [MRF], the advanced short takeoff and vertical landing aircraft [ASTOVL], the two variants of the A/FX, and the F/A–18E/F.

The MRF, A/FX, F/A–18E/F, and F–16 should be canceled. All thought of reopening the F–15E line should cease. ASTOVL work should be refocused toward enhancing the F–22. If tactical aviation is to benefit from the advantage of stealth, and maintain sensible inventories, this is the only affordable, thus feasible way.•

TRIBUTE TO HENDERSON

• Mr. McCONNELL. I rise today to pay tribute to Henderson in Henderson County.

Henderson is a city in western Kentucky, on a bluff overlooking the Ohio River. This city has seen dramatic changes in the last 40 years, preparing Henderson for the 21st century.

Henderson is a charming city filled with many elegant old homes and buildings with architectural styles ranging from Victorian to Romanesque. Henderson has a strong arts community, and is currently building an $8 million fine arts center. Famous former local residents include John Audubon and W.C. Handy. The Audubon Museum in Henderson houses one of the two finest Audubon collections in the world, and there is a music festival every year to honor Handy who is known as the father of the blues.

The economy in Henderson is stable. Farming, specifically tobacco, is a major part of the region's economy. Last year alone, the county's farms produced more than $42 million in revenue. Henderson County also has one of the State's largest coal reserves. The river economy is mainly limited to tourism from the 19th century riverboats which still grace the Ohio.

I applaud Henderson's move forward, making it one of Kentucky's finest towns.

Mr. President, I ask that a recent article from Louisville's Courier-Journal be submitted in today's CONGRESSIONAL RECORD.

The article follows:

HENDERSON: ITS PROSPERITY REFLECTS A GRAND—IF SHADY—PAST

(By Mark Schaver)

Driving the wide streets of Henderson, past elegant old homes and through the prosperous and stable downtown, you would never imagine it was once a town known for its vice.

But this is how the Rev. Charles Dietze, in his book "The Henderson Crusade," describes the town as it was around 1950:

"The people went about their tasks with lethargy, as if there was a pall over them. . . . Behind closed doors in thirty-nine night clubs, I was told, however, there was real life. Craps tables, blackjack, roulette wheels and slot machines brought a kind of release from the humdrum existence of our citizenry. . . . There were slot machines in private clubs, grocery stores and filling stations, playthings for everybody, young and old. I even suspected that one might find an occasional 'one-arm-bandit' in the basement of a church or two. . . ."

The biggest and fanciest of those 39 clubs was The Trocadero, a nightspot so plush it drew national entertainers like Tommy Dorsey and his big band and jazz musician Count Basie. "The Troc," as everyone called it, was in "no-man's land," a stretch of ground that is on the Indiana side of the Ohio River, yet still a part of Kentucky. The shifting course of the river created it, and even today many travelers driving north on U.S. 41 are surprised to learn that they are still in Kentucky after crossing the Ohio.

The Trocadero, which burned a decade ago, was also a gambling den where high rollers were rumored to play poker with as much as $100,000 on the table. And the money also bred corruption, which was so blatant that even though gambling was illegal in Kentucky, the sheriff had a reserved parking space out front.

"There were not any major corporations that wanted to come to Henderson because it was like a little Las Vegas," said Dietze, who is now retired after a lifetime of service to the Christian Church (Disciples of Christ) in Kentucky and North Carolina. "People seemed to have a guilty conscience about the gambling."

Dietze was the driving force behind the "Good Government League," a citizens' group that shut down the gamblers in the early 1950s by getting dozens of witnesses to sign affidavits about gambling. Convictions allowed the state Alcoholic Beverage Control Board to cancel the clubs' liquor licenses.

These days Henderson finds itself newly discomfited by its current prominence as the site of a horse-industry dispute over intertrack-wagering rights between Riverside Downs, a harness track, and Ellis Park, a thoroughbred track.

The rivalry has become a central issue in the FBI corruption probe that has resulted in the indictment of Kentucky House Speaker Don Blandford and an assortment of other legislators, former legislators, lobbyists and government officials.

Townspeople seem a bit sheepish when asked about the tracks, which are not in the city limits. "They're both in the county. I'm in the city. I don't know anything about

them," said William Newman, a retired dentist and Henderson's mayor for the past 23 years. "I personally never understood it."

The first person indicted was former Democratic state Sen. John Hall of Henderson, who pleaded guilty earlier this year to extorting $4,850 from Riverside Downs. Hall, who has not been sentenced, admitted keeping some of the money for himself and giving the rest to other legislators. Some in Henderson think Hall was duped.

"You could walk up and down the street and you would have a very hard time finding anyone to say anything bad about him," said Donald Wathen, the director of the Henderson library. "You would find people who really feel he was used and abused."

Townspeople much prefer talking about the brighter side of Henderson's past. For about nine years in the early 1800s, the city was home to John James Audubon, who owned a general store and then a mill that went bankrupt while he spent most of his time in the woods sketching and observing wildlife.

Audubon left in disgrace, but later prospered with the publication of the books containing his art: "The Birds of America," "Ornithological Biography," "Viviparous Quadrupeds of North America" and "The Biography of American Quadrupeds."

In 1938, the Works Projects Administration built a museum in Henderson modeled after a French Norman inn to hold water colors, oils, engravings and memorabilia loaned by Audubon's descendants. It is one of the two finest collections of his work in the world. (The museum, which is part of a 700-acre state park, is undergoing a $2 million renovation and expansion. It will be closed until sometime next summer.)

Audubon was not the only person who found inspiration in Henderson.

Every year there is a festival to honor W.C. Handy an African-American musician who is known as the "Father of the Blues." Handy was born in Alabama, but lived in Henderson in the 1890s while playing cornet in the Hampton Cornet Band. In his autobiography, Handy gave Henderson credit for putting him on the road to fame:

"I didn't write any songs in Henderson, but it was there I realized that experiences that I had had, things I had seen and heard could be set down in a kind of music characteristic of my race.

"There I learned to appreciate the music of my people. . . . The blues were born because from that day on, I started thinking about putting my own experience down in that particular kind of music."

Henderson tries to draw tourists with the slogan, "Southern Hospitality Begins in Henderson." but beneath the gentility there is the rough edge of competition with Evansville, across the Ohio River in Indiana, which is seen as irredeemably Yankee.

"I think some people over there still think we're hillbillies, but that's all right," said Marcie Schekles, executive director of the Convention and Visitors Bureau, who greets visitors in a log cabin along the chaotic strip of fast-food restaurants and motels on U.S. 41.

State Sen. Henry Lackey, who owns WSON radio, said he can tell whether someone on his morning call-in show is from Evansville or Henderson by the accent. (Lackey himself tries to suppress his tendency to drawl because he said that, while he was in college, CBS anchorman Walter Cronkite told him, "You're supposed to sound like you're from nowhere.")

A large number of Henderson residents work in Evansville, and many go there to shop, but the Kentucky town hasn't suffered much in the larger city's shadow. Unlike most towns, where the downtown have died under competition from Wal-Marts, only a half dozen of Henderson's 175 downtown storefronts are vacant.

A century ago, Henderson was known as "the second-richest town per capita in the world." The town had one of the world's largest markets for dark tobacco until World War I, and the tobacco barons built many of the old homes that gave the town its charm. Historic Henderson is a banquet of architectural styles, from Victorian to Romanesque to Italianate and more.

Henderson also benefited from its position on bluffs high above the Ohio. The town was spared the disastrous 1937 flood that inundated virtually every other community on the Ohio. It is said that Chicago will be under water before Henderson, and one of the town's mottos is "On the Ohio, but never in it."

Today the economy is not booming, but neither is it dormant. The president of the Henderson-Henderson County Chamber of Commerce likes to point out that, according to the 1990 census, the city grew in population while Owensboro and Madisonville, Ky., and Evansville shrank some. The most recent industry to open was Millstone Coffee, a company based in Washington state that grinds beans into brews such as Mocha Java and Bed and Breakfast.

Henderson has an unusual number of plastics and tool-and-die makers, drawn to the town in part because of it offers unusually low utility costs as the result of its being one of the few towns in the state that operates all of its own utilities.

Tobacco is far less important than it used to be, but agriculture is still important, and last year the county's farms produced $42 million in revenue. The county also has one of the state's largest coal reserves, and Henderson County is the only one in the state that has the authority to regulate strip mining, although that hasn't stopped rural residents from complaining about blasting and noise from the mines that opened in the 1980s.

Henderson has a strong arts community. It was the first town in the state to be a satellite for the Louisville Orchestra, and it is now building a $8 million fine-arts center at Henderson Community College. Both the Mississippi Queen and the Delta Queen riverboats dock on the riverfront, and their passengers are greeted with lemonade and cookies and a blues band.

The visitors can take the historic walking tour or look for their own surprises, such as the unintended humor contained in these words engraved on the cornerstone of the First Baptist Church, which received a new facade 13 years ago:

"Founded 1840
Erected 1879
Stoned 1979"

But despite Henderson's allures, not everyone is a defender of the town.

"It's a small town, and I like bigger towns," said Mary Harris, who was drinking a beer one evening at Spanky's bar. "I don't like to step out the door and people know my business."

Smoke filled the room, and in the back a man was sitting at a video poker machine (he was not gambling of course). The bar has been in the neighborhood so long the fixtures have turned into antiques. Once a man asked to buy the plastic Kentucky Maid Dairy clock on the wall because, he said, the company had been owned by his family. The owner wouldn't sell.

"If you could talk to that clock," said Bubby Oglesby, who was sitting on a stool at the bar, "that clock would tell you a story about Henderson."

Transportation: Air—Henderson Airport, 4,800-foot runway, Nearest commercial service, Dress Memorial Airport, Evansville, Ind., 10 miles, Highways—U.S. 41 and 80 and the Audubon and * * * parkways, Water—barge docking and loading facilities at the riverport on the Ohio River, Rail—Seaboard System Railroad and Illinois Central-Gulf Railroad, Bus: Greyhound.

Media: Newspaper—The Gleaner (daily), Radio—WGBF-FM (adult-oriented radio), WKDQ-FM (country), WSON-AM (easy listening), Television—WEHT-TV 25; Cable—TCI Cablevision, Webster Cable TV of East Henderson.

Topography: Henderson sits on an Ohio River bluff. It is 70 feet above the river's low-water mark.

Population (1990): Henderson, 25,946; Henderson County, 43,044.

Per Capita Income (1990): $18,075, or $1,083 above the state average.

Jobs (1991): Mining/quarrying, 593; contract construction, 488; manufacturing, 5,398; transportation, communications and utilities, 721; wholesale/retail trade, 3,719; finance, insurance and real estate, 498; services, 3,495; state/local government, 1,888; agriculture, 627.

Big Employers: Big Rivers Electric Corp., 870; Community United Methodist Hospital, 702; Gibbs Die Casting Aluminum Corp., 617; Accuride Corp., 550.

Education: Henderson County Schools, 7,900 students, Holy Name Grade School (Catholic), 465, Henderson Community College, 1,500.

FAMOUS FACTS AND FIGURES

Henderson is named after Col. Richard Henderson, who bought 17 million acres from the Cherokee Indians, including most of what is now Kentucky. The Virginia legislature, however, refused to recognize that claim and instead deeded his Transylvania company 200,000 acres at the site of what is now Henderson County. Henderson died before ever setting eyes on it.

Transylvania Park in Henderson is said to be the oldest municipal park west of the Alleghenies.

Henderson was the home of Mary Towles Sassean, whom the Kentucky General Assembly has recognized as the "originator of the idea" of Mother's Day. Most encyclopedias, however, do not recognize the claim.

George "Bugs" Moran, a gangster who was on the FBI's most-wanted list in the 1930s, was arrested at a home on Canter Street where he and his girlfriend had been lodgers for several months. According to the book, "Old Henderson Homes and Buildings," the couple that rented Bugs and his "moll" their rooms recalled them as "far more courteous and quiet than average law-abiding citizens."

A teen-age boy, Bobby Eugene Williams, was killed in a shootout with police in 1946 after he and three friends stole machine guns from Henderson's armory. The other boys were captured after they fell into a creek, which clogged their weapons with mud.

Henderson County was the home of four Kentucky governors; Lazarus Powell (1851–1856); John Y. Brown (1891–1895); A.O. Stanley (1915–1919); and A.B. "Happy" Chandler, (1935–1939 and 1955–1959).●

SPACE STATION PROGRAM

● Mr. D'AMATO. Mr. President, the latest announcement of a $500 million

cost overrun in the space station program came as no surprise to me. My colleagues who are concerned about NASA and who do not sit on a defense panel would do well to familiarize themselves with three recent Pentagon development disasters: the A–12, C–17, and T–45 programs. They will quickly find a common thread. And they will note that even fixed price development contracts were unable to protect the Government from a gouging.

I am, and have been, a strong supporter of the space station, and I fervently believe that NASA is a great, untapped defense conversion dynamo. I will support greater space funding this year, but I cannot condone the brand of sloppy management, and resultant cost overruns, that were hallmarks of the A–12, C–17, and T–45 programs. The American taxpayer deserves better than this.

More NASA spending does not necessarily mean that the space station cannot be canceled. I put the contractors on notice: I am watching.•

U.S.S. "INDIANAPOLIS" (CA–35)

• Mr. LUGAR. Mr. President, I rise today to pay tribute to the men of the U.S.S. *Indianapolis* (CA–35) who valiantly served the ship that bore the name of the Hoosier capital. As honorary national campaign chairman for the U.S.S. *Indianapolis* (CA–35) Memorial, I wish to insert for the RECORD a letter from the members of the McNeely Commission, who for the past 18 months reviewed the tragic circumstances surrounding the sinking of the U.S.S. *Indianapolis* (CA–35).

The letter follows:

DEAR SENATOR LUGAR: At your request, our committee has reviewed the events surrounding the sinking of the U.S.S. *Indianapolis*, the ordeal and ultimate rescue of its crew, as well as the events and activities which have taken place since that time.

The history of America is replete with stories of its sons and daughters being summoned, and responding, to their nation's call to duty in times of war. It is a proud history of accomplishment, honor, and victory. It is also a history that reflects moments of tragedy, defeat, suffering, despair, and ultimate sacrifice. The fabric of our society is interwoven with these events of the past and the lives, conduct and character of the men and women who have served their country and have shaped and molded the character of our nation.

Against this backdrop, our committee has reviewed the legacy of the U.S.S. *Indianapolis*. It is a legacy of service, of accomplishment, of heroism and of ultimate tragedy and sacrifice. The fate of the U.S.S. *Indianapolis* epitomizes the dangers of war and the accomplishments of brave men under adversity.

The U.S.S. *Indianapolis* was commissioned in 1932. The ship and crew served valiantly throughout World War II, participating in 10 major battles and other wartime air strikes and campaigns, distinguishing itself and receiving severe damage in the battle of Okinawa, and serving as flag ship of the Fifth Fleet. For its actions in time of war the ship and crew received three Presidential Unit Citations.

On July 24, 1945, the U.S.S. *Indianapolis* undertook a mission of truly monumental and historic significance. Alone, and under a veil of secrecy that would later contribute to the tragedy it was about to endure, the U.S.S. *Indianapolis* delivered vital components of the atomic bomb to awaiting forces on the island of Tinian. Having accomplished this mission, which would hasten the end of the war and result in saving the lives of literally hundreds of thousands of American and allied troops who were poised for the invasion of Japan, the U.S.S. *Indianapolis* was proceeding to its new station in the Philippines when tragedy struck.

On the fateful morning of July 30, 1945, literally at the brink of the end of a long and hard-fought war, the U.S.S. *Indianapolis* was suddenly and tragically struck by Japanese torpedoes and instantly sunk. As a result of the sinking and ensuing events, 880 men of the U.S.S. *Indianapolis* lost their lives in the worst sea disaster in our nation's history.

History has recorded, however, that the actual sinking of the U.S.S. *Indianapolis* was only the beginning of the horror which would ultimately befall the crew of the gallant ship. For five seemingly endless days and nights, the crew of the U.S.S. *Indianapolis* remained adrift, unreported and alone, without assurance that they were about to be or would ever be rescued. During these days, the crew endured debilitating weather conditions and lack of food and water, as well as countless attacks by schools of sharks. Ultimately, by an act of providence, they were discovered and rescue efforts began.

For most observers, that marked the end of the suffering that had been the fate of the crew of the U.S.S. *Indianapolis*. However, for the surviving members of the crew and the relatives of those who perished, one last act remains undone.

The heroism and sacrifice of the crew of the U.S.S. *Indianapolis* in the summer of 1945, demonstrated by their completion of their vital and secret mission, and emphasized by their actions and conduct during their ordeal awaiting rescue, have never been appropriately recognized or memorialized by a grateful nation. This is a circumstance that needs to be remedied at the first opportunity.

Sincerely,

J. LEE MCNEELY.
C. DON NATTKEMPER.
ROBERT MORRIS.•

TRIBUTE TO JOHN CATALINE

• Mr. D'AMATO. Mr. President, I rise today to honor a man who, like so many others, has selflessly served and defended his country. John Cataline, a colonel in the New York Army National Guard, has been named Man of the Year by the Loyal Order of Moose Lodge.

I feel that there is no one more deserving of the honor than Col. John Cataline of Geneva, NY. Colonel Cataline has served New York and the country for almost 26 years. He began his distinguished career at Officer Candidate School in 1966 and entered Infantry School the following year. His talents led him through many professional schools and postings, including Air Assault School and the Command and General Staff College. He progressed in rank to colonel, which is indicative of his dedication and fine abilities.

Not only has Colonel Cataline served us in the New York Army National Guard, but for the past 25 years he has been a member of the Geneva, NY, Police Department. He has served the force in every facet of operations, demonstrating the essential talents necessary to be an effective police investigator. His leadership qualities are exemplary, and the result is evident in the men and women whom he trains and leads.

John Cataline is not only a fine police and National Guard officer, he has been active in the community. He has given many hours a week to help others less fortunate. This generosity includes his acts as a trustee of Happiness House, a United Cerebral Palsy facility; Cubmaster, Pack 8, St. Stephen's Church; advancement chairman, Troop 13, Boy Scouts of America; Statute of Liberty Bicentennial Committee; and others too numerous to mention. John Cataline has set an example for all who become involved in the community.

Colonel Cataline was born in Geneva, NY, and attended the State University of New York and St. Francis de Sales High School. He has been married to the former Carol J. D'Agostino for 24 years. They have three fine sons, John, Michael, and David. John Cataline has been a dedicated defender of the people and is devoted to the betterment of mankind.

I salute him.•

RECOGNIZING RECIPIENTS OF THE GIRL SCOUT SILVER AND GOLD AWARDS AND THE BOY SCOUT EAGLE AWARD

• Mr. CHAFEE. Mr. President, As the 103d Congress commences, I believe that it is appropriate to recognize two groups of youths for Rhode Island who have distinguished themselves as leaders in their communities. These young people have demonstrated their leadership abilities through their achievements in the Girl Scouts and Boy Scouts.

Since the early nineteen hundreds, the Girl Scouts and Boy Scouts have given thousands of youths each year the opportunity to make friends, explore new skills, and develop a sense of leadership, patriotism, self-reliance, and teamwork.

The Silver Award and the Gold Award are the highest awards that can be attained by junior and high school Girl Scouts. These awards are the culmination of hard work in which they master new skills, explore career opportunities, act as leaders and mentors to younger Scouts, and perform a service project in their community. Likewise, the Eagle Scout Award is the

highest rank that a Boy Scout can attain. Eagle Scout candidates must demonstrate leadership in the form of a service project which is helpful to their religious institution, school, or community. The service project allows the Scout to prove himself as a leader by planning, organizing, arranging, and executing its completion.

It gives me great satisfaction to know that these young men and women have stepped forward early in their lives to act as role models for their peers. It is also appropriate for us to acknowledge the families, Scout leaders, and Scouting organizations that have given generously of their time and energy in support of Scouting.

It is with great pride that I submit a list of the youngsters who have earned these awards.

The list follows:

GIRL SCOUT SILVER AWARD RECIPIENTS, 1992

Ashaway, RI: Jennifer Graby.
Carolina, RI: Jennifer M. Thackeray.
Charlestown, RI: Jill Bentley, Karen Klumbis.
Coventry, RI: Kristin Hughes, Jaclyn Sheppard, Jessica Stone.
East Greenwich, RI: Susan Biancani, Stacie Bowman, Patricia Greene.
Johnston, RI: Stacey Shackford.
Kenyon, RI: Kimberly Pierce.
Little Compton, RI: Kelley Ayer, Cara Dunn, Ann Marie Gagnon, Jennifer Green, Nicole Laferriere, Amy Simmons.
North Providence, RI: Heather Konicki.
North Kingstown, RI: Katherine Blinkhorn, Rebecca McGrory, Kathryn Wodecki.
North Scituate, RI: Ruth M. Carlson.
Pawtucket, RI: Tanya Coots, Heather Davis.
Portsmouth, RI: Lorna Ashmore, Erin Conboy, Alyssa Kneller, Patricia McGrath, Jennifer Ort, Sirena Spencer.
Rehoboth, MA: Nicole Swallow, Sheila Peloquin.
Scituate, RI: Anna Cogean, Karena Cogean, Elizabeth D'Agostino, Nicole LaFrancois, Jackie Watt, Jessica Williams.
Wakefiled, RI: Jennifer McPherson, Molly Meeker.
Warwick, RI: Irene Belanger, Kelley Brooks, Laura DeStefanis, Summer Nelson, Bridget O'Brien, Stephanie Shields.
Westerly, RI: Roanna Morgan.
West Kingston, RI: Cheryl Berker, Aislynn Morgan.
Wood River Junction, RI: Shayna Horgan.
Woonsocket, RI: Melissa Brin, Tammy Doiron, Beth Gobeille, Christine Lozeau, Megan Minot, Roberta Paul, Jessica Smith.

GIRL SCOUT GOLD AWARD RECIPIENTS, 1992

East Greenwich, RI: Karin M. Gaffney.
Middletown, RI: Jodi MacCormick.
Providence, RI: Shawn Moreau.

1992 EAGLE SCOUTS

Stephan Abate, North Stonington, CT.
Charley Adams, Newport, RI.
Mark Alves, East Providence, RI.
Neil Anderson, Greenville, RI.
Jason Armstrong, Pawcatuck, CT.
Jason Arnone, Warwick, RI.
Nathan Aube, Hopkinton, RI.
Bradford Barton, Barrington, RI.
Jed Barton, Barrington, RI.
Glenn Bernard, Uxbridge, MA.
Nathaniel Blanchard, Exeter, RI.
Brian Blanchette, Pawtucket, RI.
Brendan Boragine, Cumberland, RI.
Ryan Boulais, Warwick, RI.
Michael Boyko, Blackstone, MA.
Edward Brady, Seekonk, MA.
Eric Brequet, Smithfield, RI.
Brian Budlong, East Greenwich, RI.
Philip Buffery, Cranston, RI.
Donald Bumgardner, North Kingstown, RI.
Christopher Calabretta, Jamestown, RI.
Michael Campobianco, Riverside, RI.
Russell Cates, Uxbridge, MA.
Paul Choquette III, Warwick, RI.
Matthew Christopher, Rehoboth, MA.
Courtney Chronley, Narragansett, RI.
Samuel Ciotola, Smithfield, RI.
Patrick Clarkin, Province, RI.
Christopher Collins, Cranston, RI.
Colin Combs, Cumberland, RI.
Wayne Connors, Cumberland, RI.
Jeremy Conrad, Providence, RI.
Daniel Cost, Glocester, RI.
Jonathan Couto, East Providence, RI.
Brad Coyle, Portsmouth, RI.
Seth Crothers, Wakefield, RI.
Mark S. Dabek, Coventry, RI.
Dean Dansereau, Cumberland, RI.
Erick Davis, Middletown, RI.
David Bryant Dawson, Milford, MA.
Robert Deady, Jr., Warwick, RI.
Matthew Denning, Warwick, RI.
Craig Drury, Coventry, RI.
Daniel Duggan, Portsmouth, RI.
Adam Durant, Wakefield, RI.
David Dyer, Warwick, RI.
Roger Emery III, Pawtucket, RI.
Lawrence Fagan, Cranston, RI.
John Fairhurst IV, Uxbridge, MA.
Kevin Fay, Smithfield, RI.
Dermot Fitzgerald, Smithfield, RI.
Rusty Fake, Newport, RI.
Brian Flanagan, Cranston, RI.
Steven Florio, Cranston, RI.
Kenneth Froberg, Jamestown, RI.
Barry Thomas Fuller, Jr., Pawtucket, RI.
Matthew Gabriel, Middletown, RI.
Eric George, Coventry, RI.
Robert Gigliodoro, Jr., Cranston, RI.
David A. Giroux, Coventry, RI.
Ryan Gomersall, North Kingstown, RI.
Paul Gorman, West Warwick, RI.
Nathaniel H. Wetherbee, Barrington, RI.
Mark Hamel, North Smithfield, RI.
Brendan Handfield, Barrington, RI.
John Joseph Hanley, Newport, RI.
Matthew Hanson, Warwick, RI.
Joseph Hartman, Coventry, RI.
Paul Hefner, Jr., North Providence, RI.
Garth Holman, Portsmouth, RI.
Michael Horstman, Smithfield, RI
Christian Hosford, Seekonk, MA.
James Houston, Norfolk, VA.
Clinton Howarth, Warwick, RI.
Jonathan Izzi, West Warwick, RI.
Jason Joslin, Woonsocket, RI.
Kurt Kazlauskas, East Greenwich, RI.
Robert Kerr, Jr., Narragansett, RI.
Robert King, East Providence, RI.
Peter Koerner, Jr., Cumberland, RI.
Jared Kohl, Portsmouth, RI.
Jeffery Larence, North Smithfield, RI.
Nathan Lavellee, Cumberland, RI.
Jason LeClair, Pawtucket, RI.
Ronald LeClair, Jr., Pawtucket, RI.
John Linton, Westerly, RI.
Christopher Lisy, East Greenwich, RI.
Joseph Luszca, Warwick, RI.
Christopher Magarian, North Kingstown, RI.
Michael Magnone, Providence, RI.
Derek Mailloux, North Providence, RI.
Joe Mancebo, Pawtucket, RI.
Patrick Mara, Barrington, RI.
Gregory Marchetti, Narragansett, RI.
Gary Martin, Westerly, RI.
Gregory Martin, Westerly, RI.
John Martish, Jr., Providence, RI.
Christopher Meo, North Smithfield, RI.
Brian Moffitt, Coventry, RI.
Michael Morelli, Jr., Warwick, RI.
Scott Munroe, Kingston, RI.
Jonathan Munson, Seekonk, MA.
Jeffrey Nasif, Cumberland, RI.
Richard Nawrocki, Cranston, RI.
John Newman, East Greenwich, RI.
Earl Newman III, East Greenwich, RI.
Thadius Niekerk, Barrington, RI.
Jack Norris, East Greenwich, RI.
Michael Obara, Portsmouth, RI.
Joseph Ostrenga, Millville, MA.
Matthew Palazzo, Cranston, RI.
William Palm IV, Kingston, RI.
Jeremy Patrick, Cranston, RI.
Jonathan Patrick, Cranston, RI.
Eric Paulhus, Wood River Junction, RI.
Michael Pescatello, Westerly, RI.
Craig Poissant, Coventry, RI.
Jason Poissant, Coventry, RI.
Sebastian Porto, East Providence, RI.
Ryan Raposa, Portsmouth, RI.
Jacob Rasmussen, Barrington, RI.
Christopher Ryan Riccio, Cranston, RI.
Michael Ride, Cumberland, RI.
Brett Roberts, Seekonk, MA.
Kevin Romano, Greenville, RI.
Benjamin Sammis, Rehoboth, MA.
Jeffrey Schneller, Middletown, RI.
James Schomer, Barrington, RI.
James Schwab, Cumberland, RI.
Scott Shaheen, Warwick, RI.
Kenneth Shallcross, East Greenwich, RI.
Steven Sluter, Seekonk, MA.
Gregory Snow, Smithfield, RI.
Raymond Soccio, Providence, RI.
Matthew Soroka, Pascoag, RI.
Joshua Spooner, Newport, RI.
Noel St. Germain, Coventry, RI.
Michael Stimpson, Portsmouth, RI.
Chris Strand, Hopkinton, RI.
James Stuart, Seekonk, MA.
Frank Susa, Warwick, RI.
Edward Svehlik, Wakefield, RI.
Bryan Tamburro, Barrington, RI.
Leo Tetreault, Jr., Cumberland, RI.
Matthew Ulricksen, Hope Valley, RI.
Michael Violette, Portmouth, RI.
Jeffrey Viveiros, Wyoming, RI.
Christopher Voccio, Cranston, RI.
Christopher Wallick, North Providence, RI.
Mark Whiteman, Barrington, RI.
Joseph Wignall, Cumberland, RI.
Jared Wilbur, Cranston, RI.
Robert Wilbur, Barrington, RI.
Michael Winn, Middleton, RI.
Daniel Zalit, Charlestown, RI.●

ECONOMIC GROWTH AND REGULATORY PAPERWORK REDUCTION ACT—S. 265

● Mr. SHELBY. Mr. President, I ask unanimous consent that S. 265 be printed in today's CONGRESSIONAL RECORD.

The text of S. 265 follows:

S. 265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Economic Growth and Regulatory Paperwork Reduction Act of 1993".

(b) TABLE OF CONTENTS.—

TITLE I—REGULATORY IMPACT ON CREDIT AVAILABILITY

Subtitle A—General Provisions

SEC. 101. REGULATION OF REAL ESTATE LENDING.

Subsection (o) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(o)) (as added by section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(a) by redesignating paragraph (4) as paragraph (5); and

(b) by inserting new paragraph (4) as follows:

"(4) CONSIDERATION OF PARTICULAR IMPACT.—In prescribing standards under paragraph (1), the appropriate Federal banking agencies shall, consistent with safety and soundness,—

"(A) consider the impact that such standards have on the availability of credit for small business, residential, and agricultural purposes, and on low- and moderate-income communities; and

"(B) minimize the negative impact that these standards have on the availability of credit for such purposes and in such areas".

SEC. 102. REAL ESTATE APPRAISAL AMENDMENT.

Section 1122 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3351) is amended—

(a) by redesignating subsections (b), (c), (d) and (e) as subsections (c), (d), (e) and (f) respectively;

(b) by adding the following new subsection (b):

"(b) RECIPROCITY.—The Appraisal Subcommittee shall encourage the States to develop reciprocity agreements among themselves so as to readily authorize appraisers licensed or certified in one State and in good standing with their State appraiser certifying or licensing agency to perform appraisals in another State or States as though they were licensed or certified in that State or States."; and

(c) by adding at the end of subsection (a)(3) the following new sentence: "A State appraiser certifying or licensing agency shall not impose excessive fees of burdensome requirements for temporary practice under this subsection, as determined by the Appraisal Subcommittee.".

SEC. 103. PUBLIC DEPOSITS.

Section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)) is amended—

(a) by inserting "(1) IN GENERAL.—" before "No agreement which tends";

(b) by redesignating paragraphs (1), (2), (3) and (4) as subparagraphs (A), (B), (C) and (D) respectively; and

(c) by inserting the following new paragraph (2):

"(2) EXCEPTION.—This subsection shall not apply to any agreement permitting or affecting the deposit custody or collateralization of funds of any public entity.".

Subtitle B—Impact of Accounting and Capital Issues on Credit Availability

SEC. 111. AUDIT COSTS.

(a) IN GENERAL.—Section 36 of the Federal Deposit Insurance Act (12 U.S.C. 1831m) (as added by section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) AUDITOR ATTESTATIONS.—

(A) in subsection (a)(2)(A)(ii), by striking "subsections (c) and (d)" and inserting "subsection (c)";

(B) by striking subsection (c);

(C) in subsection (d), by deleting "(d)" and inserting "(c)"; and

(D) by striking subsection (e);

(2) DUPLICATIVE REPORTING.—in subsection (i), by striking "if—(1) services and functions" and all that follows through "or the appropriate Federal banking agency." and inserting "if services and functions comparable to those required under this section are provided at the holding company level.";

(3) INDEPENDENT AUDIT COMMITTEES.—

(A) in subsection (g)(1)(A), by striking "entirely" and inserting "the majority of which is";

(B) in subsection (g)(1)(C),

(i) by inserting "and" after the semicolon in clause (i), and by striking "; and" in clause (ii) and inserting ".";

(ii) by striking clause (iii);

(C) in subsection (g)(1), by inserting the following new subparagraph:

"(D) EXEMPTIVE AUTHORITY.—each appropriate Federal banking agency shall, by regulation, exempt from the requirements of this subsection all insured depository institutions which face hardships in retaining competent directors on their internal audit committees as a result of this subsection. In determining what types of institutions will be exempted, the agency shall consider such factors as the size of the institution and the availability of competent outside directors in the community."; and

(4) PUBLIC AVAILABILITY.—in subsection (a)(3), by inserting at the end the following new sentence—"Notwithstanding the previous sentence, the Corporation and the appropriate Federal banking agencies may designate certain information as privileged and confidential and not available to the public.".

(5) QUARTERLY REPORTS.—in subsection (g)(2), by inserting the following new subparagraph (D)—

"(D) NOTICE TO INSTITUTION.—Upon determining that an institution's quarterly reports shall be subject to the requirements of subparagraph (A), the Corporation shall promptly provide the institution with written notice of such determination.".

(6) by redesignating subsections (f) through (j) as subsections (d) through (h), respectively.

(b) EFFECTIVE DATE.—Section 112(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "December 31, 1992" and inserting "December 31, 1993".

SEC. 112. RECOURSE AGREEMENTS.

Section 37(b) of the Federal Deposit Insurance Act (12 U.S.C. 1831n(b)) (as added by section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding at the end the following new paragraph (3):

"(3) RECOURSE AGREEMENTS.—Each appropriate Federal banking agency shall require insured depository institutions to use accounting principles consistent with generally accepted accounting principles in determining, for purposes of compliance with statutory or regulatory requirements, the capital required to be held against loans sold with recourse.".

SEC. 113. MARKET VALUE ACCOUNTING.

Section 37(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831n(a)(3) (as added by section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking subparagraph (D).

SEC. 114. REPORT ON CAPITAL STANDARDS AND THEIR IMPACT ON THE ECONOMY.

(a) STUDY.—No later than 90 days after enactment of this Act, the Department of the Treasury, after consultation with the Federal banking agencies, shall report to the House and Senate Banking Committees on the effect that the implementation of risk based capital standards, including the Basle international capital standards, is having on—

(1) the safety and soundness of insured depository institutions; and

(2) the availability of credit, particularly to consumers and small businesses.

The report shall contain any recommendations with respect to capital standards that the Department of the Treasury may wish to provide.

(b) DEFINITION.—For purposes of this section, the terms "Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 115. MINIMIZE POTENTIAL IMPACT OF CAPITAL STANDARDS ON CREDIT AVAILABILITY.

Section 305 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1828 note) is amended—

(a) in subsection (b)(1)(A)—

(1) by striking clauses (ii) and (iii);

(2) by striking "(A) take adequate account of—(i) interest-rate risk" and inserting "(A) take adequate account of interest-rate risk; and".

(b) by striking paragraph (3) in subsection (b) and inserting the following new paragraph (3):

"(3) TIMING FOR PRESCRIBING REVISED STANDARDS.—

"(A) INTEREST RATE RISK.—No appropriate Federal banking agency shall prescribe final regulations in the Federal Register to implement subparagraph (A) of paragraph (1) of this subsection prior to—

"(i) the implementation of similar standards at an international level; and

"(ii) the establishment of reasonable transition rules, subsequent to the occurrence specified in clause (i), to facilitate compliance with those regulations.

"(B) MULTIFAMILY MORTGAGES.—Each appropriate Federal banking agency shall—

"(i) publish final regulations in the Federal Register to implement paragraph (1)(B) not later than 18 months after date of enactment of this Act; and

"(ii) establish reasonable transition rules to facilitate compliance with those regulations.".

Subtitle C—Disincentives to Risk-taking

SEC. 121. DUE PROCESS PROTECTIONS.

(a) ATTACHMENT OF ASSETS.—

(1) INSURED DEPOSITORY INSTITUTIONS.—

(A) Section 11(d)(19) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(19)) is amended—

(i) in subparagraph (A), by striking "without regard" and all that follows through "immediate";

(ii) in subparagraph (B), by striking "(as modified with respect to such proceeding by subparagraph (A))".

(B) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by redesignating subsection (b)(6)(F) as subsection (b)(6)(G), and inserting after subsection (b)(6)(E) the following:

"(F) prohibit such person from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets or other property where injury, loss, or damage to such property is irreparable and immediate; and".

(C) Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by striking paragraph (4)(B) and inserting the following:

"(B) STANDARD.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under this paragraph.".

(2) CREDIT UNIONS.—

(A) Section 207(b)(2)(H) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)(H)) is amended—

(i) in clause (i), by striking "without regard" and all that follows through "immediate"; and

(ii) in clause (ii), by striking "(as modified with respect to such proceeding by clause (i))".

(B) Section 206(e)(3) of the Federal Credit Union Act (12 U.S.C. 1786(e)(3)) is amended by redesignating subsection (e)(3)(F) as subsection (e)(3)(G), and inserting after subsection (e)(3)(E) the following:

"(F) prohibit such person from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets or other property where injury, loss, or damage to such property is irreparable and immediate; and".

(b) STRICT LIABILITY.—Section 18(j)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(4)(A)) is amended by inserting "negligently" after "who," each time it appears.

SEC. 122. CULPABILITY STANDARDS IN PENALTY PROVISIONS.

(a) GENERAL PROVISIONS.—

(1) INSURED DEPOSITORY INSTITUTIONS.—Section 8(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)) is amended—

(A) in subparagraph (A)(i), by inserting "negligently" after "(i)"; and

(B) in subparagraph (B)(i)(I), by inserting "recklessly" after "(i)(I)".

(2) CREDIT UNIONS.—Section 206(k)(2) of the Federal Credit Union Act (12 U.S.C. 1786(k)(2)) is amended—

(A) in subparagraph (A)(i), by inserting "negligently" after "(i)"; and

(B) in subparagraph (B)(i)(I), by inserting "recklessly" after "(i)(I)".

(b) NONMEMBER INSURED BANKS AND SAVINGS ASSOCIATIONS.—Section 18(j)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(4)) (as amended by section 121(b) of this Act) is amended in subparagraph (B), by inserting "recklessly" after "(i)(I)".

(c) CHANGE IN CONTROL OF DEPOSITORY INSTITUTIONS.—Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended—

(1) in subparagraph (A), by inserting "negligently" after "Any person who"; and

(2) in subparagraph (B), by inserting "recklessly" after "(i)(I)".

(d) NATIONAL BANKS.—Section 5239(b) of the Revised Statutes (12 U.S.C. 93(b)) is amended—

(1) in paragraph (1), by inserting "negligently" after "who,"; and

(2) in paragraph (2)(A)(i), by inserting "recklessly" after "(A)(i)".

(e) MEMBER BANKS.—Section 29(a) of the Federal Reserve Act (12 U.S.C. 504(a)) is amended—

(1) in subsection (a), by inserting "negligently" after "who,"; and

(2) in subsection (b)(1)(A), by inserting "recklessly" after "(1)(A)".

(f) MEMBER BANKS.—Section 19(l) of the Federal Reserve Act (12 U.S.C. 505(l) is amended—

(1) in paragraph (1), by inserting "negligently" after "who,"; and

(2) in paragraph (2)(A)(1), by inserting "recklessly" after "(A)(1)".

(g) BANKS.—Section 106(b)(2)(F) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)) is amended—

(1) in clause (i), by inserting "negligently" after "who,"; and

(2) in clause (ii)(I)(aa), by inserting "recklessly" after "(I)(aa)".

SEC. 123. DIRECTOR AND OFFICER LIABILITY ACTIONS.

Section 11(k) of the Federal Deposit Insurance Act (12 U.S.C. 1821(k)) is amended by deleting the last sentence.

Subtitle D—Miscellaneous Credit Availability Provisions

SEC. 131. REGULATORY APPEALS PROCESS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration shall establish an independent appellate process within its agency responsible for reviewing material supervisory determinations made at insured depository institutions or credit unions that it supervises.

(b) REVIEW PROCESS.—In establishing this independent appellate process, each agency shall ensure—

(1) that any appeal of a supervisory determination from any insured depository institution or credit union, or any officer, director, employee or other representative of any insured depository institution or credit union, be heard and decided expeditiously;

(2) that appropriate safeguards exist for protecting the appellant from retaliation by agency examiners; and

(3) that the ruling agency officer have the authority, where appropriate and as justice so requires, to stay the supervisory determination pending completion of the appellate process.

(c) COMMENT PERIOD.—Each agency shall provide public notice and opportunity for comment on proposed guidelines for an appellate process not later than 90 days after enactment of this Act.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "agency" shall refer to the appropriate Federal banking agency and the National Credit Union Administration;

(2) the terms "insured depository institution" and appropriate Federal banking agency" have the same meanings as in section 3 of the Federal Deposit Insurance Act; and

(3) the term "material supervisory determination" includes determinations relating to exam ratings, the adequacy of loan loss reserve provisions, and loan classifications on loans significant to the institution.

SEC. 132. AGGREGATE LIMITS ON INSIDER LENDING.

Section 22(h)(5) of the Federal Reserve Act (12 U.S.C. 375b(5)) (as amended by section 306 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(a) by redesignating subparagraph (C) as subparagraph (D);

(b) by inserting the following new subparagraph (C):

"(C) SMALL BANK EXCEPTION.—Notwithstanding subparagraph (A), member banks with less than $100,000,000 in deposits may make such extensions of credit in the aggregate to persons specified in subparagraph (A) in an amount not to exceed 2 times the bank's unimpaired capital and unimpaired surplus."; and

(c) in subparagraph (D), as redesignated, by striking "less than $100,000,000" and inserting "between $100,000,000 and $250,000,000".

SEC. 133. STERILE RESERVES STUDIES.

(a) FEDERAL RESERVE STUDY.—No later than 90 days after enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the Federal Deposit Insurance Corporation, shall study and report to Congress on—

(1) the necessity, for monetary policy purposes, of continuing to require insured depository institutions to maintain sterile reserves;

(2) the appropriateness of paying insured depository institutions with a market rate of interest on sterile reserves, or in the alternative, providing payment of this interest into the appropriate deposit insurance fund;

(3) the monetary impact that the failure to pay interest on sterile reserves has had on insured depository institutions, including an estimate of the total dollar amount of interest and potential income lost by insured depository institutions; and

(4) the impact that failure to pay interest on sterile reserves has had on the ability of the banking industry to compete with nonbanking providers of financial services and with foreign banks.

(b) BUDGETARY IMPACT STUDY.—No later than 90 days after enactment of this Act, the Office of Management and Budget and the Congressional Budget Office, in consultation with the Senate and House Committees on the Budget, shall jointly study and report to Congress on the budgetary impact of—

(1) paying insured depository institutions a market rate of interest on sterile reserves; and

(2) paying such interest into the respective deposit insurance funds.

(c) DEFINITION.—For purposes of this section, the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

SEC. 134. CREDIT CARD ACCOUNTS RECEIVABLE SALES.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended by adding at the end the following new paragraphs:

"(14) SELLING CREDIT CARD ACCOUNTS RECEIVABLE.—

"(A) NOTIFICATION REQUIRED.—An undercapitalized insured depository institution (as defined in section 38) shall notify the Corporation in writing before entering into an agreement to sell credit card accounts receivable.

"(B) WAIVER BY CORPORATION.—The Corporation may at any time, in its sole discretion and upon such terms as it may prescribe, waive its right to repudiate an agreement to sell credit card accounts receivable if the Corporation—

"(i) determines that the waiver is in the best interests of the deposit insurance fund; and

"(ii) provides a written waiver to the selling institution.

"(C) EFFECT OF WAIVER ON SUCCESSORS.—

"(i) IN GENERAL.—If, under subparagraph (B), the Corporation has waived its right to repudiate an agreement to sell credit card accounts receivable—

"(I) any provision of the agreement that restricts solicitation of a credit card customer of the selling institution, or the use of a credit card customer list of the institution, shall bind any receiver or conservator of the institution; and

"(II) the Corporation shall require any acquirer of the selling institution, or of substantially all of the selling institution's assets or liabilities, to agree to be bound by a provision described in subclause (I) as if the acquirer were the selling institution.

"(ii) EXCEPTION.—Clause (i)(II) does not—

"(I) restrict the acquirer's authority to offer any product or service to any person identified without using a list of the selling institution's customers in violation of the agreement;

"(II) require the acquirer to restrict any preexisting relationship between the acquirer and a customer; or

"(III) apply to any transaction in which the acquirer acquires only insured deposits.

"(D) WAIVER NOT ACTIONABLE.—The Corporation shall not, in any capacity, be liable to any person for damages resulting from waiving or failing to waive the Corporation's right under this section to repudiate any contract or lease, including an agreement to sell credit card accounts receivable. No court shall issue any order affecting any such waiver or failure to waive.

"(E) OTHER AUTHORITY NOT AFFECTED.—This paragraph does not limit any other authority of the Corporation to waive the Corporation's right to repudiate an agreement or lease under this section.

"(15) CERTAIN CREDIT CARD CUSTOMER LISTS PROTECTED.—

"(A) IN GENERAL.—If any insured depository institution sells credit card accounts receivable under an agreement negotiated at arm's length that provides for the sale of the institution's credit card customer list, the Corporation shall prohibit any party to a transaction with respect to the institution under this section or section 13 from using the list except as permitted under the agreement.

"(B) FRAUDULENT TRANSACTIONS EXCLUDED.—Subparagraph (A) does not limit the Corporation's authority to repudiate any agreement entered into with the intent to hinder, delay, or defraud the institution, the institution's creditors, or the Corporation.".

SEC. 135. CHANGES TO THE FEDERAL HOME LOAN BANK ACT TO PROMOTE CREDIT AVAILABILITY.

(a) Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) by redesignating subparagraphs (4) and (5) as subparagraphs (5) and (6), respectively;

(2) in newly redesignated subparagraph (5) (as redesignated by subsection (a)(1) of this section), by inserting "nonresidential" after the first "Other";

(3) by inserting new subparagraph (4) as follows:

"(4) Other residential real estate-related collateral acceptable to the Bank."; and

(4) in newly redesignated subparagraph (6) (as redesignated by subsection (a)(1) of this section), by striking "(4)" and inserting "(5)".

(b) (Section 11(h) of the Federal Home Loan Bank Act (12 U.S.C. 1431(h)) is amended by inserting after "Federal Home Loan Bank System," the following clause: "the purchase of participating interests in residential construction loans that are originated by member institutions and that comply with uniform Federal regulations on real estate lending standards under subsection (o) of section 1828 of title 12 of the United States Code, the authority to enhance the credit quality of any such participation interests in residential construction loans that the Banks resell,".

TITLE II—REGULATORY MICROMANAGEMENT

SEC. 201. REGULATORY STANDARDS.

Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831s) (as added by section 132 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is hereby repealed.

SEC. 202. PAPERWORK REDUCTION REVIEW.

Not later than 180 days after the date of enactment of this Act, each appropriate Federal banking agency, in consultation with insured depository institutions and other interested parties, shall—

(a) review the extent to which current regulations require insured depository institutions to produce unnecessary internal written policies; and

(b) eliminate such requirements, where appropriate.

For purposes of this section, the terms "insured depository institution" and "appropriate Federal banking agency" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 203. RULES ON DEPOSIT TAKING.

Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—

(1) by inserting "undercapitalized" after "includes any"; and

(2) by inserting "undercapitalized" after "employee of any".

SEC. 204. ADEQUATE TRANSITION PERIOD FOR NEW REGULATIONS.

(a) ADEQUATE TRANSITION PERIOD FOR NEW REGULATIONS.—No new regulation issued by a Federal banking agency which imposes additional reporting, disclosure or other requirements on insured depository institutions shall be effective prior to 180 days from the date that that regulation becomes final unless—

(1) the agency makes a finding that an emergency exists which requires sooner action; or

(2) explicitly directed by Congress.

(b) DEFINITION.—For purposes of this section, the terms "Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

TITLE III—UNNECESSARY COST, PAPERWORK AND REGULATION

Subtitle A—General Provisions

SEC. 301. ANNUAL EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) (as amended by section 111 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) SMALL INSTITUTION TREATMENT.—In subsection (d), delete paragraph (4) and insert the following new paragraph:

"(4) 2-YEAR RULE FOR CERTAIN SMALL INSTITUTIONS.—Paragraphs (1), (2), and (3) shall

apply with '24-month' substituted for '12-month' if—

"(A) the insured depository institution has total assets of less than $250,000,000;

"(B) the institution is well capitalized, as defined in section 38;

"(C) when the institution was most recently examined, it was found to be well managed, had solid earnings, had been profitable for the previous 2 years, and its composite condition was found to be good;

"(D) the insured depository institution is not currently subject to a formal enforcement order by the appropriate Federal banking agency; and

"(E) no person acquired control of the institution during the 12-month period in which a full-scope, on-site examination would be required but for this paragraph.

"The dollar amount in the preceding sentence shall be adjusted annually after December 31, 1992, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.".

(2) STATE EXAMINATIONS.—In subsection (d), delete paragraph (3) and insert the following new paragraph:

"(3) STATE EXAMINATIONS ACCEPTABLE.—The examination requirement established under paragraph (1) may be satisfied by an examination of the insured depository institution conducted by the state during the 12-month period if the appropriate Federal banking agency determines that the state examination carries out the purposes of this subsection.".

(3) CERTAIN DEPOSITORY INSTITUTIONS WITHIN HOLDING COMPANIES.—At the end of subsection (d), add the following new paragraph:

"(7) CERTAIN INSTITUTIONS WITHIN DEPOSITORY INSTITUTION HOLDING COMPANIES.—The appropriate Federal banking agency may exempt any insured depository institution owned or controlled by a depository institution holding company from the requirements of this subsection where—

"(A) the agency is satisfied that adequate internal controls and examination procedures exist within the holding company structure; or

"(B) the insured depository institutions owned or controlled by the depository institution holding company which hold a substantial majority of the total assets of all insured depository institution assets owned or controlled by the depository institution holding company have been examined pursuant to the requirements of this subsection.".

SEC. 302. COORDINATED EXAMINATIONS.

(a) COORDINATED STATE AND FEDERAL EXAMINATIONS.—Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) (as amended by section 301 of this Act) is amended by inserting after paragraph (7) the following new paragraph:

"(8) COORDINATED EXAMINATIONS.—Each appropriate Federal banking agency shall, to the extent practicable—

"(A) coordinate all examinations to be conducted by that agency at an insured depository institution; and

"(B) work with other appropriate Federal banking agencies and appropriate State bank supervisors to coordinate examinations to be conducted at an insured depository institution.

so as to minimize the disruptive effects of such examinations on institution operations.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(r) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (r)) is amended to read as follows:

"(r) APPROPRIATE STATE BANK SUPERVISOR.—The term 'appropriate State bank supervisor' means any officer, agency, or other entity of any State which has primary regulatory authority over State banks or State savings associations in such State.".

SEC. 303. DIFFERENCES IN ACCOUNTING PRINCIPLES.

Section 37(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831n(a)(2)) (as added by section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding the following new subparagraph (C)—

"(C) MINIMIZE DIFFERENCES.—Notwithstanding subparagraph (B), each appropriate Federal banking agency and the Corporation shall require insured depository institutions to use accounting principles consistent with generally accepted accounting principles to the extent practicable so as to minimize differences between statements and reports, and thereby reduce the compliance burdens and costs on insured depository institutions.".

SEC. 304. REDUCTION OF CALL REPORT BURDENS.

(a) REGULATORY REVIEW OF CALL REPORT BURDENS.—

(1) IN GENERAL.—Within 60 days after the date of enactment of this Act, each appropriate Federal banking agency shall review the regulatory burden and costs incurred by insured depository institutions during their preparation of reports of condition.

(2) FACTORS TO BE CONSIDERED.—In conducting its review, each agency shall consider all relevant factors that it deems necessary to correctly determine the extent of the burden and costs, including—

(A) the actual dollar cost to financial institutions in preparing such reports;

(B) the time and resources expended to meet regulatory directives;

(C) the frequency in which the agency has modified the type(s) of information required to be reported in such reports and the costs and burdens associated with complying with such modifications; and

(D) the extent to which such costs and burdens, viewed within the overall context of the total regulatory burden and cost incurred by insured depository institutions in their day-to-day operations, impact upon the availability of credit.

(3) CORRECTIVE MEASURES.—After conducting its review, each appropriate Federal banking agency shall revise its call report requirements to remove any unnecessary burdens and costs. Prior to any subsequent modification in call report requirements, each agency shall consider the extent to which such modifications impose unnecessary regulatory burdens and costs upon insured depository institutions.

(4) DEFINITIONS.—For purposes of this section, the terms "insured depository institution" and "appropriate Federal banking agency" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(b) REPEAL OF PUBLICATION REQUIREMENTS.—

(1) The fifth sentence of section 5211(a) of the Revised Statutes (12 U.S.C. 161(a)) is amended by striking "; and the statement of resources and liabilities in the same form in which it is made to the comptroller shall be published in a newspaper" and all that follows through the period and inserting a period.

(2) Section 5211(c) of the Revised Statutes (12 U.S.C. 161(c)) is amended by striking the fourth sentence.

(3) Section 7(a)(1) of the Federal Deposit Insurance Act is amended by striking the fourth sentence.

(4) The last sentence of the sixth undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by striking "and shall be published" and all that follows through the end of the sentence and inserting a period.

(c) AMENDMENT RELATING TO NATIONAL BANKS.—Section 5211(a) of the Revised Statutes (12 U.S.C. 161(a)) is amended by adding at the end the following sentence: "Any change in the form of report of condition made under this subsection shall be effective only once in a particular calendar year, and only after at least 6 months from the date that notice of the change is published in the Federal Register, except that such change may be effective on a subsequent date or after less notice if the Comptroller makes a specific finding that an additional change in the form or a shorter advance-notice period is necessary because of an emergency or change in Federal law.".

(d) AMENDMENT RELATING TO STATE NONMEMBER INSURED BANKS.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(10) TRANSITION PERIOD FOR CHANGES IN REPORT REQUIREMENTS.—Any change in the form of reports of condition made under this subsection shall be effective only once in a particular calendar year, and only after at least 6 months from the date that notice of the change is published in the Federal Register, except that such a change may be effective on a subsequent date or after less notice if the Board of Directors makes a specific finding that an additional change in the form or a shorter advance-notice period is necessary because of an emergency or change in Federal law.".

(e) AMENDMENT RELATING TO STATE MEMBER BANKS.—The sixth undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by adding at the end the following sentence: "Any change in the form of report of condition made under this subsection shall be effective only once in a particular calendar year, and only after at least 6 months from the date that notice of the change is published in the Federal Register, except that such a change may be effective on a subsequent date or after less notice if the Board of Governors of the Federal Reserve System makes a specific finding that an additional change in the form or a shorter advance-notice period is necessary because of an emergency or change in Federal law.".

(f) AMENDMENT RELATING TO SAVINGS ASSOCIATION.—Section 5(v) of the Home Owners' Loan Act (12 U.S.C. 1464(v)) is amended by adding at the end the following new paragraph:

"(9) TRANSITION PERIOD FOR CHANGES IN REPORT REQUIREMENTS.—Any change in the form of reports of condition made under this subsection shall be effective only once in a particular calendar year, and only after at least 6 months from the date that notice of the change is published in the Federal Register, except that such a change may be effective on a subsequent date or after less notice if the Director makes a specific finding that an additional change in the form or a shorter advance-notice period is necessary because of an emergency or change in Federal law.".

(g) AMENDMENT RELATING TO CREDIT UNIONS.—Section 202(a)(1) of the Federal Credit Union Act (12 U.S.C. 1782(a)(1)) is

amended by adding at the end the following sentence: "Any change in the form of reports of condition made under this subsection shall be effective only once in a particular calendar year, and only after at least 6 months from the date that notice of the change is published in the Federal Register, except that such a change may be effective on a subsequent date or after less notice if the Board makes a specific finding that an additional change in the form or a shorter advance-notice period is necessary because of an emergency or change in Federal law.".

SEC. 305. REGULATORY REVIEW OF CAPITAL COMPLIANCE BURDEN.

Not later than 180 days after the date of enactment of this Act, the Federal Financial Institutions Examination Council, in consultation with insured depository institutions and other interested parties, shall—

(a) review the extent to which current compliance requirements associated with risk-based capital rules have an unnecessarily costly and burdensome effect on community banks; and

(b) where appropriate, reduce such costs and burdens.

For purposes of this section, the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

SEC. 306. BRANCH CLOSURES.

Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p) (as added by section 228 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding at the end the following new subsections:

"(d) DEFINITIONS.—for purposes of this section, the term "branch" shall not include:

"(1) automated teller machines;

"(2) a branch acquired through merger, consolidation, purchase, assumption or other method that is located in a local market area currently served by another branch of the acquiring institution;

"(3) a branch that is closed and reopened in another location within the same local market area which would continue to provide banking services to substantially all of the customers currently served by the branch that is closed;

"(4) a branch that is closed in connection with—

"(A) an emergency acquisition under—

"(i) section 11(n); or

"(ii) subsections (f) or (k) of section 13;

"(B) any assistance provided by the Corporation under section 13(c); and

"(5) any other branch closure whose exemption from the notice requirements of this section would not produce a result inconsistent with the purposes of this section. The appropriate Federal banking agency shall, by regulation, determine the circumstances under which such exemptions will be granted.

"(e) EFFECTIVE DATE.—the amendments made by this section shall become effective on the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.".

SEC. 307. BANK SECRECY ACT AMENDMENTS.

(a) STAFF COMMENTARIES.—Title 31 of the United States Code is amended to add the following new section 5327:

"SEC. 5327. STAFF COMMENTARIES.

"The Secretary of the Treasury shall review all regulations promulgated under this title on an annual basis and seek comment from the public pursuant to this review. The Secretary shall publish all written rulings interpreting this title, as well as a staff commentary to the regulations issued under this title. This commentary shall be issued on an annual basis.".

(b) LOG REQUIREMENTS.—Section 5325(a)(1) of title 31 of the United States Code is amended—

(1) by striking subparagraphs (A) and (B); and

(2) by inserting the following new paragraph (1):

"(1) the individual has a transaction account with such financial institution and the financial institution verifies that fact through a signature card or other information maintained by such institution in connection with the account of such individual.".

(c) EXEMPTION PROCESS.—Section 5318(a)(5) of title 31 of the United States Code is amended—

(1) by inserting "or exception" after "an appropriate exemption"; and

(2) by inserting "only after receiving comments from the entities covered by this chapter. The Secretary must take into account the effect that changes to the exemption or exception process will have on the cost and efficiency of the reporting process." after the words "under this subchapter".

(d) CUSTOMER FILINGS.—Section 5313(a) of title 31 of the United States Code is amended by striking ", the institution and any other participant in the transaction the Secretary may prescribe shall file a report" and inserting "the person who participates in the transaction shall file a report".

(e) INFLATION ADJUSTMENTS ON CTR AMOUNTS.—Section 5313(a) of title 31 of the United States Code is amended by inserting after the second sentence the following new sentence: "The Secretary must review the reporting requirements mentioned above by September 1 of each calendar year to determine if the reporting amount prescribed by the Secretary should be adjusted to account for inflation, cost effectiveness of the requirement or the usefulness for law enforcement purposes. The Secretary must submit a written report to the Congress each year disclosing how the reporting threshold decision was reached. The report must include an analysis of how the change will affect domestic financial institutions.".

SEC. 308. CLARIFYING AMENDMENTS.

(a) DATA COLLECTIONS.—Section 7(a)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(8)) (as amended by section 141(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended to add at the end the following new sentence: "In prescribing reporting and other requirements pursuant to this paragraph, the Corporation shall minimize the regulatory burden imposed upon insured depository institutions.";

SEC. 309. LIMITING POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.) is amended by adding at the end the following:

"11. LIMITATIONS ON LIABILITY.—

"A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(i) an act of war, insurrection or civil strife, or

"(ii) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located,

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances. The Board is authorized to prescribe such regulations as it deems necessary to implement this paragraph.".

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:

"( ) SOVEREIGN RISK.—Section 25(11) of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(1)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(1)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and".

(c) EXISTING CLAIMS NOT AFFECTED—The amendments made by this section shall not be construed to affect any claim arising from events (described in section 25(11) of the Federal Reserve Act, as added by subsection (a)) that occurred before the date of enactment of this section.

SEC. 310. REPEAL OUT-DATED STATUTORY PROVISION.

Section 5204 of the Revised Statutes (12 U.S.C. 56) is amended—

(1) in the second sentence, by striking "deducting therefrom its losses and bad debts" and inserting "subject to other provisions of law"; and

(2) by striking the third sentence.

SEC. 311. FLEXIBILITY IN CHOOSING BOARDS OF DIRECTORS.

Section 72 of title 12, United States Code is amended: In the first sentence delete "two-thirds" and replace it with "one-half"; In the first sentence after the phrase, "affiliate of a foreign bank" insert, "whether or not the association is owned or controlled by such foreign bank".

Subtitle B—Holding Company Efficiencies

SEC. 321. EXPEDITED PROCEDURES FOR FORMING A BANK HOLDING COMPANY.

Section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B),"; and

(2) by inserting before the period at the end of the second sentence the following: ", or (C) with 30 days prior notification to the Board, the acquisition by a company of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed bank holding company and receive, after the reorganization, substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if, immediately following the acquisition, the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company and the holding company does not engage in any activities other than those of banking or managing and controlling banks. In promulgating regulations pursuant to this subsection, the Board shall not require more capital for the subsidiary bank immediately following the reorganization than is required for a similarly sized bank that is not a subsidiary of a bank holding company.".

SEC. 322. EXEMPTION OF CERTAIN HOLDING COMPANY FORMATIONS FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933.

Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end thereof the following new paragraph:

"(7) transactions involving offers or sales of equity securities, in connection with the acquisition of a bank by a company under section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(A)), if the acquisition occurs solely as part of a reorganization in which a person or group of persons exchange their shares of a bank for shares of a newly formed bank holding company and receive, after that reorganization, substantially the same proportional share interests in the bank holding company as they held in the bank, except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law.".

SEC. 323. EXPEDITED PROCEDURES FOR BANK HOLDING COMPANIES TO SEEK APPROVAL TO ENGAGE IN NONBANKING ACTIVITIES.

Paragraph (8) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by redesignating clauses (i) and (ii) of subparagraphs (C), (D), and (E) as subclauses (I) and (II), respectively;

(2) by redesignating subparagraphs (A) through (G), and any cross references thereto as clauses (i) through (vii), respectively; and

(3) by striking out all that precedes "purposes of this subsection it is not" and inserting in lieu thereof the following:

"(8)(A) ACTIVITIES CLOSELY RELATED TO BANKING.—In accordance with the limitations and requirements contained in subparagraphs (B) and (C) of this paragraph, shares of any company whose activities the Board has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto.

"(B) NOTICE REQUIREMENTS.—

"(i) No bank holding company shall engage in any activity or acquire the shares of a company pursuant to this paragraph, either de novo or by an acquisition in whole or in part of a going concern, unless the Board has been given 60 days prior written notice of that proposal and, within that period, the Board has not issued an order—

"(I) disapproving the proposal, or

"(II) extending the time period in accordance with clause (iii) below.

"(ii)(I) An acquisition may be made prior to the expiration of the disapproval period if the Board issues a written statement of its intent not to disapprove the proposal.

"(II) The Board shall publish in the Federal Register notice of receipt of a notice under this paragraph involving insurance and provide a reasonable period for public comment. The Board shall issue an order involving any such notice.

"(III) No notice under this paragraph is required for a bank holding company to establish de novo an office to engage in any activity previously authorized for that bank holding company under this paragraph or to change location of an office engaged in that activity.

"(iii) The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice, except that the Board may require only such information as may be relevant to the nature and scope of the proposed activity and to the Board's evaluation of the notice under the criteria specified in clause (iv). If the Board requires additional relevant information beyond that provided in the notice, the Board may by order extend the time period provided in clause (i) of this subparagraph until it has received that information, and the activity that is the subject of the notice may be commenced within 60 days of the date of that receipt unless the Board issues a disapproval order as provided in clause (i). Such an extension order is reviewable under section 9 of this Act.

"(iv) In determining whether to disapprove a notice under this paragraph, the Board shall consider whether the performance of the activity described in the notice by a bank holding company or subsidiary thereof can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. In orders and regulations under this paragraph, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

"(c) The Board shall by order set forth the reasons for any disapproval or determination not to disapprove a notice under this paragraph.

"(C) INSURANCE ACTIVITIES NOT CLOSELY RELATED TO BANKING.—For".

SEC. 324. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK HOLDING COMPANY ACQUISITIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by adding before the period at the end of the fourth sentence thereof the following: "or if no adverse comment has been received regarding section 4(c)(8)(C) or section 4(j) of this act, such shorter period of time as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 5 days.".

SEC. 325. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK MERGERS.

Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting before the period at the end of the last sentence thereof the following: "or such shorter period of time as may be prescribed by the agency with the concurrence of the Attorney General, but in no event less than 5 days.".

TITLE IV—CONSUMER INCONVENIENCE, PAPERWORK, AND COST; OTHER NONSUPERVISORY REFORMS

Subtitle A—Consumer Benefits and Lending Process Improvements

SEC. 401. STREAMLINED LENDING PROCESS FOR CONSUMER BENEFIT.

(a) FEDERAL RESERVE STUDY.—Within twelve months of enactment of this Act, the Board of Governors of the Federal Reserve System, in consultation with the Department of Housing and Urban Development, shall conduct a study and report to Congress on ways to streamline the credit-granting process.

(b) FOCUS.—In carrying out subsection (a), the Board shall—

(1) identify ways to streamline the home mortgage, small business and consumer lending processes so as to—

(A) reduce consumer inconvenience, cost and time delays; and

(B) minimize cost and burdens on insured depository institutions and credit unions;

(2) take such regulatory action, as appropriate, to meet the objectives of paragraph (1); and

(3) provide Congress with legislative recommendations on changes necessary to carry out the purposes of this section.

(c) COMMENT.—In carrying out the objectives of this section, the Board shall solicit comments from other Federal banking agencies, consumer groups, insured depository institutions, credit unions, and other interested parties.

(d) DEFINITION.—For purposes of this section, the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

SEC. 402. EXEMPTION FOR CERTAIN BORROWERS.

Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended by adding at the end the following:

"(7) Credit transactions involving consumers who earn more than $200,000 annually or have net assets in excess of $1,000,000 at the time of such transaction.".

SEC. 403. MODIFICATION OF WAIVER OF RIGHT OF RESCISSION.

Section 125(d) of the Truth in Lending Act (15 U.S.C. 1635(d)) is amended by striking ", if it finds that such action is necessary in order to permit homeowners to meet bona fide personal financial emergencies,".

SEC. 404. ALTERNATIVE DISCLOSURES FOR ADJUSTABLE RATE MORTGAGES.

(a) Section 127A(a)(2)(G) of the Truth in Lending Act (15 U.S.C. 1637a(a)(2)(G)) is amended by inserting before the semicolon ", or a statement that the monthly payment may increase or decrease significantly due to increases in the annual percentage rate".

(b) In Section 128(a) of the Truth in Lending Act (15 U.S.C. 1638(a)), insert at the end the following new paragraph (14):

"(14) In any variable rate residential mortgage transaction, at the creditors' option, a statement that the monthly payment may increase or decrease substantially, or an historical example illustrating the effects of interest rate changes implemented according to the loan program.".

SEC. 405. EXEMPTION FOR BUSINESS ACCOUNTS.

Section 274 of the Truth in Savings Act (15 U.S.C. 4313) is amended by striking subsection (1) and inserting the following in its place:

"(1) The term 'account' means any account intended for use by and generally used by consumers primarily for personal, family, or household purposes by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.".

SEC. 406. ELIMINATION OF DUPLICATE DISCLOSURES FOR HOME EQUITY LOANS.

Section 4 of the Real Estate Settlement Procedures Act (12 U.S.C. 2603) is amended by inserting in subsection (a) after the first sentence: "except that for federally related mortgage loans secured by a subordinate lien on residential property subject to section 127A(a) of the Truth in Lending Act (15 U.S.C. 1637a(a)), the disclosures of section 127A(a) of the Truth in Lending Act (15 U.S.C. 1637a(a)) may be used in place of the standard real estate settlement form.".

Subtitle B—Other Non-Supervisory Reforms

PART 1—EXPEDITED FUNDS AVAILABILITY AND ELECTRONIC TRANSFERS

SEC. 411. AVAILABILITY SCHEDULES.

(a) TREASURY CHECKS.—Section 603(a)(2)(A) of the Expedited Funds Availability Act (12 U.S.C. 4002(a)(2)(A)) is amended—

(1) by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively; and

(2) by inserting before clause (ii), as redesignated, the following:

"(i) is deposited in a receiving depository institution which is staffed by individuals employed by such institutions;".

(b) ON-US ITEMS.—Section 603(a)(2)(E) of the Expedited Availability Act (12 U.S.C. 4002(a)(2)(E)) is amended by inserting "is staffed by individuals employed by such institutions" after "branch of a depository institution".

(c) LOCAL CHECKS.—Section 603(b)(1) of the Expedited Funds Availability Act (12 U.S.C. 4002(b)(1)) is amended by striking "1 business day" and inserting "2 business days".

SEC. 412. DEFINITION OF A NEW ACCOUNT.

Section 604(a) of Expedited Funds Availability Act (12 U.S.C. 4003(a)) is amended by striking "30-day period" and inserting "90-day period".

SEC. 413. JURISDICTION.

Section 611(f) of the Expedited Funds Availability Act (12 U.S.C. 4010(f)) is amended in the first sentence by inserting "or other entities participating in the payments system, including States and political subdivisions thereof on which checks are drawn." after "depository institutions".

SEC. 414. UNAUTHORIZED ELECTRONIC FUND TRANSFERS.

Section 909(a)(1) of Electronic Fund Transfer Act (15 U.S.C. 1693g(a)(1)) is amended by inserting "(or in cases where the cardholder has substantially contributed to the unauthorized use, including writing on or keeping with the card or other means of access a personal identification or other security code, $500)" after "$50".

PART 2—AMENDMENTS TO THE TRUTH IN LENDING ACT

SEC. 421. LIABILITY FOR UNAUTHORIZED USE OF CREDIT CARDS.

Section 133(a) of the Truth in Lending Act (15 U.S.C. 1643(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2)(A) Notwithstanding paragraph (1), a cardholder shall be liable for the unauthorized use of a credit card if—

"(i) the liability is in excess of $50; and

"(ii) the cardholder fails to notify the card issuer of any unauthorized transaction which appears on the statement of the cardholder's account in connection with an extension of consumer credit within 60 days of the receipt of such statement.

"(B) The liability described in subparagraph (A) shall not apply if the cardholder demonstrates that the failure to timely notify the card issuer of the unauthorized use was due to extenuating circumstances such as extended travel or hospitalization, and notice was provided at the earliest possible time thereafter.

"(C) the liability described in subparagraph (A) shall only apply where the card issuer has provided prior notice to the cardholder of such liability.".

PART 3—HOMEOWNERSHIP AMENDMENTS

SEC. 431. HOME MORTGAGE DISCLOSURE ACT EXEMPTION.

The Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 et seq.) is amended in section 309 (12 U.S.C. 2808) by inserting at the end the following new sentence: "The amount of total assets in the preceding sentence shall be adjusted yearly on January 1 by the annual percentage change in the Consumer Price Index reported for the previous June 1.".

SEC. 432. HOMEOWNERSHIP DEBT COUNSELING NOTIFICATION.

Section 106(c)(5) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)) is amended:

(a) by inserting at the end the following new subparagraph (F):

"(F) AFFECT ON FORECLOSURE PROCEEDINGS.—Failure of a creditor to comply with the requirements of this subsection shall in no way affect foreclosure proceedings under State law."; and

(b) in subparagraph (B)—

(1) by inserting "(i)" before "The notification required" and by renumbering clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) by inserting the following new clause (ii)—

"(ii) Creditors shall not be required to provide the notification required under subparagraph (A) more than once annually.".

SEC. 433. ELIMINATION OF DUPLICATIVE DATA COLLECTION.

Effective six months after the date of enactment of this Act, no Federal banking agency shall require any institution for which it is the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) to prepare, file, or maintain any form for the purpose of collection, analysis, or maintenance of appropriate data to further the purposes of, or to fulfill the requirements of, the Fair Housing Act, other than a form for data collection, analysis, or maintenance required under the Home Mortgage Disclosure Act of 1975.

PART 4—AMENDMENTS TO THE TRUTH IN SAVINGS ACT

SEC. 441. CIVIL LIABILITY.

Section 271 of the Truth in Savings Act (15 U.S.C. 4310) is amended—

(1) by inserting the following new subsection (c):

"(c) LIMITS TO CIVIL LIABILITY.—In connection with the disclosures referred to in section 268, a depository institution shall have liability under paragraph (a)(2) of this section only for failing to comply with subsections (2) and (4) of section 268. A depository institution has no liability under this section for any failure to comply with section 263."; and

(2) by redesignating subsections (c), (d), (e), (f), (g), (h) and (i) as subsections (d), (e), (f), (g), (h), (i) and (j), respectively.

PART 5—AMENDMENTS TO THE REAL ESTATE SETTLEMENTS PROCEDURES ACT

SEC. 451. CLARIFY DISCLOSURE REQUIREMENTS.

Section 6 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) is amended—

(a) in subsection (a)(1)(B)—

(1) by inserting "at the choice of the person making a federally related mortgage loan—(i)" after "(B)";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and by striking "and" at the end of newly redesignated subclause (II) and inserting "or"; and

(3) by inserting the following new clause (ii):

"(ii) a statement that the person making the loan has previously assigned, sold, or transferred the servicing of federally related mortgage loans; and".

(b) in subsection (a)(2), by inserting at the end the following new sentence: "Notwithstanding the previous sentences of this paragraph, the Secretary shall also permit any person originating the loan, at the choice of such person, to provide instead of the percentage estimates required to be disclosed under this paragraph a statement that the servicing may be assigned, sold or transferred during the 12-month period beginning upon origination.".

SEC. 452. EXEMPTION OF BUSINESS LOANS.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601) is amended—

(1) by redesignating sections 4 (as amended by section 406 of this Act) through 19 as sections 5 through 20, respectively; and

(2) by inserting the following new section 4:

"SEC. 4. EXEMPTED TRANSACTIONS.—This title does not apply to the following:

"(1) Credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, or to government or governmental agencies or instrumentalities, or to organizations; or

"(2) Credit transactions to finance or refinance agricultural property (such as farms, ranches, aquaculture, or vineyards) constituting 25 or more acres regardless of whether the loan in part involves a lien including residential property.".

TITLE V—COMMUNITY INVESTMENT

SEC. 501. COMMUNITY REINVESTMENT ACT AMENDMENTS.

(a) COMPLIANCE BURDENS.—Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended—

(1) in paragraph (1), by striking "; and" and inserting ";";

(2) in paragraph (2), by striking "." and inserting "; and"; and

(3) by adding at the end the following new paragraph (3):

"(3) minimize the regulatory paperwork burdens and costs associated with compliance with this Act, giving appropriate consideration and recognition to such factors as the nature and scope of the institution's business, its location and area of service, and such other factors as may be appropriate.".

(b) SAFE HARBOR.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is hereby amended by adding the following new section:

"SEC. 809. SAFE HARBOR.—Notwithstanding section 804(2), an application for a deposit facility by—

"(a) a regulated financial institution shall not be denied on the basis of such institution's compliance with this Act is such institution received a rating in its last evaluation under section 804 of 'Outstanding' in its record of meeting community credit needs, as provided in section 807(b); or

"(b) a depository institution holding company, as defined in section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)), shall not be denied if—

"(1) regulated financial institution subsidiaries representing, in the aggregate, two-thirds of the holding company's regulated financial institution assets received a rating in their last evaluation under section 804 of 'Outstanding'; and

"(2) the remaining regulated financial institution subsidiaries received a rating in their last evaluation under section 804 of at least 'Satisfactory'.".

(c) INCREASED INCENTIVES TO LENDING TO LOW- AND MODERATE-INCOME COMMUNITIES.—Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) (as amended by section 501(a) of this Act) is amended—

(1) in paragraph (2), by striking "; and" and inserting ";";

(2) in paragraph (3), by striking "." and inserting "; and"; and

(3) by adding at the end the following new paragraph (4):

"(4) provide the institution with credit, for purposes of satisfying the requirements of this Act, for investments in, and loans to, joint ventures or other entities or projects which provide benefits to distressed commu-

nities, as such term is defined by the appropriate Federal financial supervisory agency, whether those communities are located within or outside of the service area of the regulated financial institution.".

(d) SPECIAL PURPOSE BANKS.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is hereby amended—

(1) in section 803 (12 U.S.C. 2902), by inserting the following new paragraph (5):

"(5) the term "special purpose banks" means a bank that does not generally accept retail deposits, such as credit card banks and trust banks."; and

(2) in section 804 (12 U.S.C. 2903) (as amended by sections 501(a) and 501(c) of this Act)—

(A) by inserting "(a)" before "In connection with";

(B) by inserting at the end the following new subsection (b):

"(b) In conducting assessments pursuant to subsection (a) at special purpose banks, each appropriate Federal financial supervisory agency shall take into consideration the nature of business such banks are involved in and develop standards under which such banks may be deemed to have complied with the requirements of this Act which are consistent with the specific nature of such businesses.".

(e) STATE EXAMS.—The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is hereby amended by adding after section 809 (as added by section 501(b)) the following new section:

"SEC. 810. STATE EXAMS.—The appropriated Federal financial supervisory agency may accept examinations conducted by state supervisory agencies pursuant to comparable state community reinvestment laws in order to satisfy the requirements of this Act.".•

COMMERCE COMMITTEE RULES

• Mr. HOLLINGS. Mr. President, in accordance with paragraph 2 of rule XXVI of the Standing Rules of the Senate, I submit the rules of the Committee on Commerce, Science, and Transportation to be printed in the RECORD.

These committee rules were adopted at the committee's executive session held on January 28, 1993.

The rules follow:

RULES OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

I. MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the Committee shall be the first and third Tuesdays of each month. Additional meetings may be called by the Chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the Committee, or any subcommittee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee, or any subcommittee, on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the Committee, or any subcommittee, when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

3. Each witness who is to appear before the Committee or any subcommittee shall file with the Committee, at least 24 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

4. Field hearings of the full Committee, and any subcommittee thereof, shall be scheduled only when authorized by the Chairman and Ranking Minority Member of the full Committee.

II. QUORUMS

1. Eleven members shall constitute a quorum for official action of the Committee when reporting a bill or nomination, provided that proxies shall not be counted in making a quorum.

2. Seven members shall constitute a quorum for the transaction of all business as may be considered by the Committee, except for the reporting of a bill or nomination, provided that proxies shall not be counted in making a quorum.

3. For the purpose of taking sworn testimony, a quorum of the Committee and each subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

III. PROXIES

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a majority of the members being present, a member who is unable to attend the meeting may submit his vote by proxy, in writing or by telephone, or through personal instructions.

IV. BROADCASTING OF HEARINGS

Public hearings of the full Committee, or any subcommittee thereof, shall be televised or broadcast only when authorized by the Chairman and the Ranking Minority Member of the full Committee.

V. SUBCOMMITTEES

1. Any member of the Committee may sit with any subcommittee during its hearings or any other meeting but shall not have the authority to vote on any matter before the subcommittee unless he is a Member of such subcommittee.

2. Subcommittees shall be considered *de novo* whenever there is a change in the chairmanship, and seniority on the particular subcommittee shall not necessarily apply.•

BUDGET SCOREKEEPING REPORT

• Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through January 29, 1993. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget—House Concurrent Resolution 287—show that current level spending is below the budget resolution by $2.1 billion in budget authority and $0.5 billion in outlays. Current level is $0.5 billion above the revenue floor in 1993 and above by $1.4 billion over the 5 years, 1993–97. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $392.4 billion, $28.4 billion below the maximum deficit amount for 1993 of $420.8 billion.

There has been no action that affects the current level of budget authority, outlays, or revenues since the last report, dated January 26, 1993.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 2, 1993.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1993 and is current through January 29, 1993. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 287). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated January 26, 1993, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer.)

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., AS OF JAN. 29, 1993

[In billions of dollars]

	Budget resolution (H. Con. Res. 287)	Current level[1]	Current level +/− resolution
On-budget:			
Budget authority	1,250.0	1,247.9	−2.1
Outlays	1,242.3	1,241.8	−.5
Revenues:			
1993	848.9	849.4	+.5
1993–97	4,818.6	4,820.0	+1.4
Maximum deficit amount	420.8	392.4	−28.4
Debt subject to limit	4,461.2	4,082.0	−379.2
Off-budget:			
Social Security outlays:			
1993	260.0	260.0	
1993–97	1,415.0	1,415.0	
Social Security revenues:			
1993	328.1	328.1	(2)
1993–97	1,865.0	1,865.0	(2)

[1]Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2]Less than $50,000,000.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 103D CONG., 1ST SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1993 AS OF CLOSE OF BUSINESS JAN. 29, 1993

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			849,425
Permanents and other spending legislation	764,283	737,413	
Appropriation legislation	732,061	743,943	
Offsetting receipts	(240,524)	(240,524)	
Total previously enacted	1,255,820	1,240,833	849,425
ENACTED THIS SESSION			
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	(7,928)	962	
Total current level[1]	1,247,892	1,241,794	849,425
Total budget resolution[2]	1,249,990	1,242,290	848,890
Amount remaining:			
Under budget resolution	2,098	496	
Over budget resolution			535

[1]In accordance with the Budget Enforcement Act, the total does not include $1,145 million in budget authority and $6,988 million in outlays in emergency funding.

[2]Includes revision under Section 9 of the Concurrent Resolution on the Budget.

Note.—Amounts in parentheses are negative.•

RULES FOR THE COMMITTEE ON THE BUDGET

• Mr. SASSER. Mr. President, pursuant to rule XXVI(2) of the Standing Rules of the Senate, I submit for printing in the CONGRESSIONAL RECORD the rules of the Committee on the Budget for the 103d Congress as adopted by the committee, Friday, January 29, 1993.

The rules of the committee follow:

RULES OF THE COMMITTEE ON THE BUDGET, 103D CONGRESS

I. MEETINGS

(1) The committee shall hold its regular meeting on the first Thursday of each month. Additional meetings may be called by the chair as the chair deems necessary to expedite committee business.

(2) Each meeting of the Committee on the Budget of the Senate, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee determines by record vote in open session of a majority of the members of the committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identify of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(i) an act of Congress requires the information to be kept confidential by Government officers and employees; or

(ii) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

II. QUORUMS

(1) Except as provided in paragraphs (2) and (3) of this section, a quorum for the transaction of committee business shall consist of not less than one-third of the membership of the entire committee: Provided, that proxies shall not be counted in making a quorum.

(2) A majority of the committee shall constitute a quorum for reporting budget resolutions, legislative measures or recommendations: Provided, that proxies shall not be counted in making a quorum.

(3) For the purpose of taking sworn or unsworn testimony, a quorum of the committee shall consist of one Senator.

III. PROXIES

When a record vote is taken in the committee on any bill, resolution, amendment, or any other question, a quorum being present, a member who is unable to attend the meeting may vote by proxy if the absent member has been informed of the matter on which the vote is being recorded and has affirmatively requested to be so recorded; except that no member may vote by proxy during the deliberations on Budget Resolutions.

IV. HEARINGS AND HEARING PROCEDURES

(1) The committee shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least 1 week in advance of such hearing, unless the chair and ranking minority member determine that there is good cause to begin such hearing at an earlier date.

(2) A witness appearing before the committee shall file a written statement of proposed testimony at least 1 day prior to appearance, unless the requirement is waived by the chair and the ranking minority member, following their determination that there is good cause for the failure of compliance.

V. COMMITTEE REPORTS

(1) When the committee has ordered a measure or recommendation reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time.

(2) A member of the committee who gives notice of an intention to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be intitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusions shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views.•

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

• Mr. PELL. Mr. President, pursuant to the requirements of paragraph 2 of Senate rule XXVI, I ask to have printed in the RECORD the rules of the Committee on Foreign Relations for the 103d Congress adopted by the committee on January 26, 1993.

The rules of the committee follow:

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

(Adopted January 26, 1993)

RULE 1—JURISDICTION

(a) *Substantive.*—In accordance with Senate Rule XXV.1(j), the jurisdiction of the Committee shall extend to all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Acquisition of land and buildings for embassies and legislations in foreign countries.
2. Boundaries of the United States.
3. Diplomatic service.
4. Foreign economic, military, technical, and humanitarian assistance.
5. Foreign loans.
6. International activities of the American National Red Cross and the International Committee of the Red Cross.
7. International aspects of nuclear energy, including nuclear transfer policy.
8. International conferences and congresses.
9. International law as it relates to foreign policy.
10. International Monetary Fund and other international organizations established primarily for international monetary purposes (except that, at the request of the Committee on Banking, Housing, and Urban Affairs, any proposed legislation relating to such subjects reported by the Committee on Foreign Relations shall be referred to the Committee on Banking, Housing, and Urban Affairs).
11. Intervention abroad and declarations of war.
12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.
13. National security and international aspects of trusteeships of the United States.
14. Ocean and international environmental and scientific affairs as they relate to foreign policy.
15. Protection of United States citizens abroad and expatriation.
16. Relations of the United States with foreign nations generally.

17. Treaties and executive agreements, except reciprocal trade agreements.

18. United Nations and its affiliated organizations.

19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance purposes.

The Committee is also mandated by Senate Rule XXV.1(j) to study and review, on a comprehensive basis, matters relating to the national security policy, foreign policy, and international economic policy as it relates to foreign policy of the United States, and matters relating to food, hunger, and nutrition in foreign countries, and report thereon from time to time.

(b) *Oversight.*—The Committee also has a responsibility under Senate Rule XXVI.8, which provides that ". . . each standing Committee . . . shall review and study, on a continuing basis, the application, administration, and execution of those laws or parts of laws, the subject matter of which is within the jurisdiction of the Committee."

(c) *"Advice and Consent" Clauses.*—The Committee has a special responsibility to assist the Senate in its constitutional function of providing "advice and consent" to all treaties entered into by the United States and all nominations to the principal executive branch positions in the field of foreign policy and diplomacy.

RULE 2—SUBCOMMITTEES

(a) *Creation.*—Unless otherwise authorized by law or Senate resolution, subcommittees shall be created by majority vote of the Committee and shall deal with such legislation and oversight of programs and policies as the Committee directs. Legislative measures or other matters may be referred to a subcommittee for consideration in the discretion of the Chairman or by vote of a majority of the Committee. If the principal subject matter of a measure or matter to be referred falls within the jurisdiction of more than one subcommittee, the Chairman or the Committee may refer the matter to two or more subcommittees for joint consideration.

(b) *Assignments.*—Assignments of members to subcommittees shall be made in an equitable fashion. No member of the Committee may receive assignment to a second subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one subcommittee, and no member shall receive assignments to a third committee until, in order of seniority, all members have chosen assignments to two subcommittees.

No member of the Committee may serve on more than three subcommittees at any one time.

The Chairman and Ranking Minority Member of the Committee shall be ex officio members, without vote, of each subcommittee.

(c) *Meetings.*—Except when funds have been specifically made available by the Senate for a subcommittee purpose, no subcommittee of the Committee on Foreign Relations shall hold hearings involving expenses without prior approval of the Chairman of the full Committee or by decision of the full Committee. Meetings of subcommittees shall be scheduled after consultation with the Chairman of the Committee with a view toward avoiding conflicts with meetings of other subcommittees insofar as possible. Meetings of subcommittees shall not be scheduled to conflict with meetings of the full Committee.

The proceedings of each subcommittee shall be governed by the rules of the full Committee, subject to such authorizations or limitations as the Committee may from time to time prescribe.

RULE 3—MEETINGS

(a) *Regular Meeting Day.*—The regular meeting day of the Committee on Foreign Relations for the transaction of Committee business shall be on Tuesday of each week, unless otherwise directed by the Chairman.

(b) *Additional Meetings.*—Additional meetings and hearings of the Committee may be called by the Chairman as he may deem necessary. If at least three members of the Committee desire that a special meeting of the Committee be called by the Chairman, those members may file in the offices of the Committee their written request to the Chairman for that special meeting. Immediately upon filing of the request, the Chief Clerk of the Committee shall notify the Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the Committee may file in the offices of the Committee their written notice that a special meeting of the Committee will be held, specifying the date and hour of that special meeting. The Committee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk shall notify all members of the Committee that such special meeting will be held and inform them of its date and hour.

(c) *Minority Request.*—Whenever any hearing is conducted by the Committee or a subcommittee upon any measure or matter, the minority on the Committee shall be entitled, upon request made by a majority of the minority members to the Chairman before the completion of such hearing, to call witnesses selected by the minority to testify with respect to the measure or matter during at least one day of hearing thereon.

(d) *Public Announcement.*—The Committee, or any subcommittee thereof, shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearings, unless the Chairman of the Committee, or subcommittee, determines that there is good cause to begin such hearing at an earlier date.

(e) *Procedure.*—Insofar as possible, proceedings of the Committee will be conducted without resort to the formalities of parliamentary procedure and with due regard for the views of all members. Issues of procedure which may arise from time to time shall be resolved by decision of the Chairman, in consultation with the Ranking Minority Member. The Chairman, in consultation with the Ranking Minority Member, may also propose special procedures to govern the consideration of particular matters by the Committee.

(f) *Closed Sessions.*—Each meeting of the Committee on Foreign Relations, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee or a subcommittee on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in paragraphs (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the Committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct; to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interest of effective law enforcement;

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person, or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

A closed meeting may be opened by a majority vote of the Committee.

(g) *Staff Attendance.*—A member of the Committee may have one member of his or her personal staff, for whom that member assumes personal responsibility, accompany and be seated nearby at Committee meetings.

Each member of the Committee may designate members of his or her personal staff, who hold a Top Secret security clearance, for the purpose of their eligibility to attend closed sessions of the Committee, subject to the same conditions set forth for Committee staff under Rules 12, 13, and 14.

In addition, the Majority Leader and the Minority Leader of the Senate, if they are not otherwise members of the Committee, may designate one member of their staff with a Top Secret security clearance to attend closed sessions of the Committee, subject to the same conditions set forth for Committee staff under Rules 12, 13 and 14. Staff of other Senators who are not members of the Committee may not attend closed sessions of the Committee.

Attendance of Committee staff at meetings shall be limited to those designated by the Staff Director or the Minority Staff Director.

The Committee, by majority vote, or the Chairman, with the concurrence of the Ranking Minority Member, may limit staff attendance at specified meetings.

RULE 4—QUORUMS

(a) *Testimony.*—For the purpose of taking sworn or unsworn testimony at any duly scheduled meeting a quorum of the Committee and each subcommittee thereof shall consist of one member.

(b) *Business.*—A quorum for the transaction of Committee or subcommittee business, other than for reporting a measure or recommendation to the Senate or the taking of testimony, shall consist of one-third of the

members of the Committee or subcommittee, including at least one member from each party.

(c) *Reporting.*—A majority of the membership of the Committee shall constitute a quorum for reporting any measure or recommendation to the Senate. No measure or recommendation shall be ordered reported from the Committee unless a majority of the Committee members are physically present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of those members who are physically present at the time the vote is taken.

RULE 5—PROXIES

Proxies must be in writing with the signature of the absent member. Subject to the requirements of Rule 4 for the physical presence of a quorum to report a matter, proxy voting shall be allowed on all measures and matters before the Committee. However, proxies shall not be voted on a measure or matter except when the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he or she be so recorded.

RULE 6—WITNESSES

(a) *General.*—The Committee on Foreign Relations will consider requests to testify on any matter or measure pending before the Committee.

(b) *Presentation.*—If the Chairman so determines, the oral presentation of witnesses shall be limited to 10 minutes. However, written statements of reasonable length may be submitted by witnesses and other interested persons who are unable to testify in person.

(c) *Filing of Statements.*—A witness appearing before the Committee, or any subcommittee thereof, shall file a written statement of his proposed testimony at least 48 hours prior to his appearance, unless this requirement is waived by the Chairman and the Ranking Minority Member following their determination that there is good cause for failure to file such a statement.

(d) *Expenses.*—Only the Chairman may authorize expenditures of funds for the expenses of witnesses appearing before the Committee or its subcommittees.

(e) *Requests.*—Any witness called for a hearing may submit a written request to the Chairman no later than 24 hours in advance for his testimony to be in closed or open session, or for any other usual procedure. The Chairman shall determine whether to grant any such request and shall notify the Committee members of the request and of this decision.

RULE 7—SUBPOENAS

(a) *Authorization.*—The Chairman or any other member of the Committee, when authorized by a majority vote of the Committee at a meeting or by proxies, shall have authority to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials. When the Committee authorizes a subpoena, it may be issued upon the signature of the Chairman or any other member designated by the Committee.

(b) *Return.*—A subpoena, or a request to an agency, for documents may be issued whose return shall occur at a time and place other than that of a scheduled Committee meeting. A return on such a subpoena or request which is incomplete or accompanied by an objection constitutes good cause for a hearing on shortened notice. Upon such a return, the Chairman or any other member designated by him may convene a hearing by giving 2 hours notice by telephone to all other members. One member shall constitute a quorum for such a hearing. The sole purpose of such a hearing shall be to elucidate further information about the return and to rule on the objection.

(c) *Depositions.*—At the direction of the Committee, staff is authorized to take depositions from witnesses.

RULE 8—REPORTS

(a) *Filing.*—When the Committee has ordered a measure or recommendation reported, the report thereon shall be filed in the Senate at the earliest practicable time.

(b) *Supplemental, Minority and Additional Views.*—A member of the Committee who give notice of his intentions to file supplemental, minority, or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the Chief Clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the Committee report may be filed and printed immediately without such views.

(c) *Rollcall Votes.*—The results of all rollcall votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the Committee report. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee.

RULE 9—TREATIES

(a) The Committee is the only Committee of the Senate with jurisdiction to review and report to the Senate on treaties submitted by the President for Senate advice and consent. Because the House of Representatives has no role in the approval of treaties, the Committee is therefore the only congressional committee with responsibility for treaties.

(b) Once submitted by the President for advice and consent, each treaty is referred to the Committee and remains on its calendar from Congress to Congress until the Committee takes action to report it to the Senate or recommend its return to the President, or until the Committee is discharged of the treaty by the Senate.

(c) In accordance with Senate Rule XXX.2, treaties which have been reported to the Senate but not acted on before the end of a Congress "shall be resumed at the commencement of the next Congress as if no proceedings had previously been had thereon."

(d) Insofar as possible, the Committee should conduct a public hearing on each treaty as soon as possible after its submission by the President. Except in extraordinary circumstances, treaties reported to the Senate shall be accompanied by a written report.

RULE 10—NOMINATIONS

(a) *Waiting Requirement.*—Unless otherwise directed by the Chairman and the Ranking Minority Member, the Committee on Foreign Relations shall not consider any nomination until 6 calendar days after it has been formally submitted to the Senate.

(b) *Public Consideration.*—Nominees for any post who are invited to appear before the Committee shall be heard in public session, unless a majority of the Committee decrees otherwise.

(c) *Required Data.*—No nomination shall be reported to the Senate unless (1) the nominee has been accorded a security clearance on the basis of a thorough investigation by executive branch agencies; (2) in appropriate cases, the nominee has filed a confidential statement and financial disclosure report with the Committee; (3) the Committee has been assured that the nominee does not have any interests which could conflict with the interests of the government in the exercise of the nominee's proposed responsibilities; (4) for persons nominated to be chief of mission, ambassador-at-large, or minister, the Committee has received a complete list of any contributions made by the nominee or members of his immediate family to any Federal election campaign during the year of his or her nomination and for the 4 preceding years; and (5) for persons nominated to be chiefs of mission, a report on the demonstrated competence of that nominee to perform the duties of the position to which he or she has been nominated.

RULE 11—TRAVEL

(a) *Foreign Travel.*—No member of the Committee on Foreign Relations or its staff shall travel abroad on Committee business unless specifically authorized by the Chairman, who is required by law to approve vouchers and report expenditures of foreign currencies, and the Ranking Minority Member. Requests for authorization of such travel shall state the purpose and, when completed, a full substantive and financial report shall be filed with the Committee within 30 days. This report shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee. Except in extraordinary circumstances, staff travel shall not be approved unless the reporting requirements have been fulfilled for all prior trips. Except for travel that is strictly personal, travel funded by non-U.S. Government sources is subject to the same approval and substantive reporting requirements as U.S. Government-funded travel. In addition, members and staff are reminded of Senate Rule XXXV.4 requiring a determination by the Senate Ethics Committee in the case of foreign-sponsored travel.

Any proposed travel by Committee staff for a subcommittee purpose must be approved by the subcommittee chairman and ranking minority member prior to submission of the request to the Chairman and Ranking Minority Member of the full Committee.

When the Chairman and the Ranking Minority Member approve the foreign travel of a member of the staff of the committee not accompanying a member of the Committee, all members of the Committee shall be advised, prior to the commencement of such travel of its extent, nature, and purpose.

(b) *Domestic Travel.*—All official travel in the United States by the Committee staff shall be approved in advance by the Staff Director, or in the case of minority staff, by the Minority Staff Director.

(c) *Personal Staff.*—As a general rule, no more than one member of the personal staff of a member of the Committee may travel with that member with the approval of the Chairman and the Ranking Minority Member of the Committee. During such travel, the personal staff member shall be considered to be an employee of the Committee.

RULE 12—TRANSCRIPTS

(a) *General.*—The Committee on Foreign Relations shall keep verbatim transcripts of all Committee and subcommittee meetings and such transcripts shall remain in the custody of the Committee, unless a majority of

the Committee decides otherwise. Transcripts of public hearings by the Committee shall be published unless the Chairman, with the concurrence of the Ranking Minority Member, determines otherwise.

(b) *Classified or Restricted Transcripts.*—

(1) The Chief Clerk of the Committee shall have responsibility for the maintenance and security of classified or restricted transcripts.

(2) A record shall be maintained of each use of classified or restricted transcripts.

(3) Classified or restricted transcripts shall be kept in locked combination safes in the Committee offices except when in active use by authorized persons for a period not to exceed 2 weeks. Extensions of this period may be granted as necessary by the Chief Clerk. They must never be left unattended and shall be returned to the Chief Clerk promptly when no longer needed.

(4) Except as provided in paragraph 7 below, transcripts classified secret or higher may not leave the Committee offices except for the purpose of declassification.

(5) Classified transcripts other than those classified secret or higher may leave the Committee offices in the possession of authorized persons with the approval of the Chairman. Delivery and return shall be made only by authorized persons. Such transcripts may not leave Washington, DC, unless adequate assurances for their security are made to the Chairman.

(6) Extreme care shall be exercised to avoid taking notes or quotes from classified transcripts. Their contents may not be divulged to any unauthorized person.

(7) Subject to any additional restrictions imposed by the Chairman with the concurrence of the Ranking Minority Member, only the following persons are authorized to have access to classified or restricted transcripts.

(i) Members and staff of the Committee in the Committee rooms;

(ii) Designated personal representatives of members of the Committee, and of the Majority and Minority Leaders, with appropriate security clearances, in the Committee's Capitol office;

(iii) Senators not members of the Committee, by permission of the Chairman in the Committee rooms; and

(iv) Members of the executive departments involved in the meeting, in the Committee's Capitol office, or, with the permission of the Chairman, in the offices of the officials who took part in the meeting, but in either case, only for a specified and limited period of time, and only after reliable assurances against further reproduction or dissemination have been given.

(8) Any restrictions imposed upon access to a meeting of the Committee shall also apply to the transcript of such meeting, except by special permission of the Chairman and notice to the other members of the Committee. Each transcript of a closed session of the Committee shall include on its cover a description of the restrictions imposed upon access, as well as any applicable restrictions upon photocopying, note-taking or other dissemination.

(9) In addition to restrictions resulting from the inclusion of any classified information in the transcript of a Committee meeting, members and staff shall not discuss with anyone the proceedings of the Committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the Chairman, the Ranking Minority Member, or in the case of staff, by the Staff Director or Minority Staff Director. A record shall be kept of all such authorizations.

(c) *Declassification.*—

(1) All restricted transcripts and classified Committee reports shall be declassified on a date twelve years after their origination unless the Committee by majority vote decides against such declassification, and provided that the executive departments involved and all former Committee members who participated directly in the sessions or reports concerned have been consulted in advance and given a reasonable opportunity to raise objections to such declassification.

(2) Any transcript or classified Committee report, or any portion thereof, may be declassified fewer than twelve years after their origination if:

(i) the Chairman originates such action or receives a written request for such action, and notifies the other members of the Committee;

(ii) the Chairman, Ranking Minority Member, and each member or former member who participated directly in such meeting or report give their approval, except that the Committee by majority vote may overrule any objections thereby raised to early declassification; and

(iii) the executive departments and all former Committee members are consulted in advance and have a reasonable opportunity to object to early declassification.

RULE 13—CLASSIFIED MATERIAL

(a) All classified material received or originated by the Committee shall be logged in at the Committee's offices in the Dirksen Senate Office Building, and except for material classified as "Top Secret" shall be filed in the Dirksen Senate Building offices for Committee use and safekeeping.

(b) Each such piece of classified material received or originated shall be card indexed and serially numbered, and where requiring onward distribution shall be distributed by means of an attached indexed form approved by the Chairman. If such material is to be distributed outside the Committee offices, it shall, in addition to the attached form, be accompanied also by an approved signature sheet to show onward receipt.

(c) Distribution of classified material among offices shall be by Committee members or authorized staff only. All classified material sent to members' offices, and that distributed within the working offices of the Committee, shall be returned to the offices designated by the Chief Clerk. No classified material is to be removed from the offices of the members or of the Committee without permission of the Chairman. Such classified material will be afforded safe handling and safe storage at all times.

(d) Material classified "Top Secret," after being indexed and numbered shall be sent to the Committee's Capitol office for use by the members and authorized staff in that office only or in such other secure Committee offices as may be authorized by the Chairman or Staff Director.

(e) In general, members and staff undertake to confine their access to classified information on the basis of a "need to know" such information related to their Committee responsibilities.

(f) The Staff Director is authorized to make such administrative regulations as may be necessary to carry out the provisions of these regulations.

RULE 14—STAFF

(a) *Responsibilities*—

(1) The staff works for the Committee as a whole, under the general supervision of the Chairman of the Committee, and the immediate direction of the Staff Director; provided, however, that such part of the staff as is designated Minority Staff, shall be under the general supervision of the Ranking Minority Member and under the immediate direction of the Minority Staff Director.

(2) Any member of the Committee should feel free to call upon the staff at any time for assistance in connection with Committee business. Members of the Senate not members of the Committee who call upon the staff for assistance from time to time should be given assistance subject to the overriding responsibility of the staff to the Committee.

(3) The staff's primary responsibility is with respect to bills, resolutions, treaties, and nominations.

In addition to carrying out assignments from the Committee and its individual members, the staff has a responsibility to originate suggestions for Committee or subcommittee consideration. The staff also has a responsibility to make suggestions to individual members regarding matters of special interest to such members.

(4) It is part of the staff's duty to keep itself as well informed as possible in regard to developments affecting foreign relations and in regard to the administration of foreign programs of the United States. Significant trends or developments which might otherwise escape notice should be called to the attention of the Committee, or of individual Senators with particular interests.

(5) The staff shall pay due regard to the constitutional separation of powers between the Senate and the executive branch. It therefore has a responsibility to help the Committee bring to bear an independent, objective judgment of proposals by the executive branch and when appropriate to originate sound proposals of its own. At the same time, the staff shall avoid impinging upon the day-to-day conduct of foreign affairs.

(6) In those instances when Committee action requires the expression of minority views, the staff shall assist the minority as fully as the majority to the end that all points of view may be fully considered by members of the Committee and of the Senate. The staff shall bear in mind that under our constitutional system it is the responsibility of the elected Members of the Senate to determine legislative issues in the light of as full and fair a presentation of the facts as the staff may be able to obtain.

(b) *Restrictions.*—

(1) The staff shall regard its relationship to the Committee as a privileged one, in the nature of the relationship of a lawyer to a client. In order to protect this relationship and the mutual confidence which must prevail if the Committee-staff relationship is to be a satisfactory and fruitful one, the following criteria shall apply:

(i) members of the staff shall not be identified with any special interest group in the field of foreign relations or allow their names to be used by any such group;

(ii) members of the staff shall not accept public speaking engagements or write for publication in the field of foreign relations without specific advance permission from the staff Director, or, in the case of minority staff, from the Minority Staff Director. In the case of the Staff Director and the Minority Staff Director, such advance permission shall be obtained from the Chairman or the Ranking Minority Member, as appropriate. In any event, such public statements should avoid the expression of personal views and should not contain predictions of future, or interpretations of past, Committee action; and

(iii) staff shall not discuss their private conversations with members of the Committee without specific advance permission from the Senator or Senators concerned.

(2) The staff shall not discuss with anyone the proceedings of the Committee in closed session or reveal information conveyed or discussed in such a session unless that person would have been permitted to attend the session itself, or unless such communication is specifically authorized by the Staff Director or Minority Staff Director. Unauthorized disclosure of information from a closed session or of classified information shall be cause for immediate dismissal and may, in the case of some kinds of information, be grounds for criminal prosecution.

RULE 15—STATUS AND AMENDMENT OF RULES

(a) *Status.*—In addition to the foregoing, the Committee on Foreign Relations is governed by the Standing Rules of the Senate which shall take precedence in the event of a clear inconsistency. In addition, the jurisdiction and responsibilities of the Committee with respect to certain matters, as well as the timing and procedure for their consideration in Committee, may be governed by statute.

(b) *Amendment.*—These Rules may be modified, amended or repealed by a majority of the Committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken. However, Rules of the Committee which are based upon Senate Rules may not be superseded by Committee vote alone.•

LYME DISEASE AWARENESS WEEK

• Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of legislation designating the week beginning June 6, 1993, as Lyme Disease Awareness Week and commend my colleague from Connecticut, Senator LIEBERMAN, for introducing this important legislation. It is vital that we continue to increase the public's awareness of Lyme disease.

Lyme disease was first identified in Lyme, CT, 17 years ago. A tick-borne disease, Lyme disease has spread to 46 States across the country. In 1991, 9,344 cases were reported in the United States, 3,357 of those in the State of New York.

Lyme disease is difficult to diagnose because its symptoms mimic a host of other ailments. Symptoms often include a rash at the site of the tick bite accompanied by a fever, headaches, stiff neck, and fatigue. Unfortunately, these symptoms are often ignored or dismissed as insignificant. If left untreated, Lyme disease can lead to arthritis, meningitis, encephalitis, heart disease, and paralysis. In some cases it can even cause irreversible joint and neurological damage.

While there is no vaccine available now, Lyme disease can be cured when diagnosed early and treated properly. Additionally, one can avoid contracting the disease by taking some simple precautions when in a tick-infested area. The key to successful prevention, diagnosis and treatment, however, is public awareness. It is therefore crucial that we use every means available to alert the public to this health threat.

The designation of the week of June 6, 1993, as Lyme Disease Awareness Week is an important way to increase public awareness of Lyme disease and to educate people about the prevention, diagnosis, and treatment of this debilitating disease. I am pleased to be an original cosponsor of this resolution, and I urge my colleagues to join me in supporting its immediate passage.•

PRESIDENTIAL POLITICS IN SOUTH DAKOTA, 1936

• Mr. DASCHLE. Mr. President, I would like to bring to my colleagues' attention an article, "Presidential Politics in South Dakota, 1936." It was written by Philip A. Grant, Jr., a distinguished professor of history at Pace University in New York.

One of the major themes of the article is the tendency of South Dakota voters to split their tickets. In 1936, South Dakotans voted for President Roosevelt and elected a Republican Governor and Congressman. Last November, South Dakotans favored President Bush and reelected a Democratic Senator and Congressman.

I ask that Professor Grant's fascinating article be printed in the RECORD and commend it to my colleagues.

The article follows:

[From the South Dakota State Historical Society Quarterly, Fall 1992]

PRESIDENTIAL POLITICS IN SOUTH DAKOTA, 1936

(By Philip A. Grant, Jr.)

On 11 June 1936, the Republican party nominated Governor Alfred M. Landon of Kansas as its candidate for president of the United States. Fifteen days later, the Democrats renominated incumbent president Franklin D. Roosevelt. Although both major political parties had officially chosen presidential candidates by late June, the 1936 campaign did not actually begin until Governor Landon gave his first major speech on 22 August. Between that date and 3 November, the American electorate had the opportunity to evaluate the personalities and policies of the Republican and Democratic nominees. During those ten weeks, both Governor Landon and President Roosevelt traveled throughout the nation, held press conferences in numerous cities and towns, delivered formal addresses over the various radio networks, and issued a multitude of position papers detailing their campaign promises. While the people of the United States were certainly interested in the outcome of the 1936 presidential contest, they were equally preoccupied with the progress made toward mitigating the suffering the Great Depression had caused. Indeed, nearly seven years had elapsed since the infamous Wall Street financial crisis of 1929. As the campaign of 1936 progressed, political observers kept an eye on South Dakota, for the state had proven to be a barometer of midwestern, if not national, political sentiment, having cast its electoral votes for victorious candidates in seven of the last nine presidential elections.[1]

Between 1900 and 1928, South Dakotans had been steadfastly Republican, sending GOP candidates to both the United States Senate and House of Representatives and voting for Republicans in thirteen of fifteen gubernatorial elections.[2] On 8 November 1932, the sustained Republican domination of South Dakota politics had ended abruptly and dramatically with Roosevelt winning all but one county in the state and outpolling President Herbert Hoover 183,515 to 99,212. Also triumphant in the 1932 South Dakota race were the Democratic nominee for governor, the two Democratic candidates for the House of Representatives, and ninety-eight Democrats seeking seats in the one hundred-forty-eight-member state legislature.[3] By August and September 1936, however, some South Dakota Republicans were cautiously optimistic about their party's prospects for the November election. First, these Republicans suspected that an appreciable number of voters were growing impatient with the limited success of President Roosevelt's attempts to revitalize the American economy. Second, they believed that Governor Landon, who was in no way associated with the origins of the depression, was a decidedly more attractive and viable candidate than discredited former president Herbert Hoover had been four years earlier. Finally, they anticipated that the Union party presidential nominee, Congressman William Lemke of neighboring North Dakota, might draw thousands of disgruntled Democratic and independent votes in rural South Dakota.

South Dakota Republicans had some justification for their optimism regarding Landon's challenge to Roosevelt's reelection quest. One of the few Republican governors elected in the Democratic landslide of 1932, Landon had been comfortably reelected two years later in defiance of a pronounced nationwide Democratic trend. The popular chief executive of a Great Plains state that was similar to South Dakota both geographically and economically, he had carried the bulk of the agricultural counties in his two Kansas gubernatorial campaigns. Moreover, Landon clearly identified with the moderate wing of the Republican party, making him more acceptable to those whom Hoover's rigid conservatism had alienated in 1932.[4]

South Dakota political observers estimated that Union party candidate Lemke might poll in excess of twenty percent of South Dakota's popular vote, recalling that third-party candidates had fared conspicuously well in several past presidential elections. In 1892, Populist James B. Weaver had received 26,552 votes (37.8 percent) in South Dakota, while in 1912 Theodore Roosevelt, the Progressive ("Bull Moose") nominee, had accumulated 58,811 ballots (50.6 percent). In 1920, Parley P. Christensen, the Farmer-Labor candidate, had won 34,406 votes (19.0 percent), and four years later, Progressive Robert M. La Follette secured 75,200 votes (36.9 percent). Observers speculated that if Lemke did reasonably well in his presidential bid in South Dakota, he might cause serious problems for the Roosevelt candidacy.[5]

With few exceptions, South Dakota Democrats expected that 1936 would be a productive year for their party. President Roosevelt's magnetic personality would be a meaningful factor in the presidential contest, as it had in 1932. Destined to become the most formidable vote-getter in the annals of American politics, Roosevelt had twice won the governorship of New York, the nation's largest and most diverse state. In the 1932 presidential election, he had won every state between the Ohio River and the Pacific Ocean. His aristocratic background notwithstanding, Roosevelt repeatedly

stressed his commitment to improving the lot of the small and frequently impoverished farmer. During his first administration, he had persuaded Congress to enact the most sweeping domestic-reform program in American history. An orator of renowned eloquence, he had delivered a number of his legendary "fireside chats" before the 1936 campaign began.[6]

In addition to Roosevelt's popularity, Democrats had further reason to be optimistic when they reviewed the off-year elections of 1934, which had afforded voters an opportunity to express their approval for or disenchantment with Roosevelt's New Deal. In all previous off-year elections, the party controlling the White House had lost congressional seats and governorships. In 1934, however, the Democrats added to their already sizable House and Senate majorities and captured several key governorships. Particularly noteworthy were Democratic successes in the Midwest, where Democrats won Senate seats in Ohio, Indiana, Missouri, and Nebraska and governorships in Ohio, Iowa, Nebraska, North Dakota, and South Dakota. In South Dakota, both incumbent Democratic congressmen, Fred H. Hildebrandt of Watertown and Theodore B. Werner of Rapid City, defeated their Republican adversaries. Voters gave Democratic Governor Tom Berry a second term by a record 62,593 majority.[7]

Of paramount importance to the fate of the Democratic ticket in South Dakota, however, was the impact of the various New Deal agricultural programs, which had resulted in a study increase in annual farm income across the Midwest and the entire nation. Such landmark measures as the Agricultural Adjustment Act of 1933, the Farm Mortgage Moratorium Act of 1935, the Soil Conservation and Domestic Allotment Act, and the Rural Electrification Act had contributed to a reversal of the misfortunes that had plagued American agriculture since the early 1920s. Between 1932 and 1936, farm income nationwide had increased by more than sixty-eight percent, from $6,405,000,000 to $10,756,000,000. Roosevelt's emphasis on farm relief generated considerable enthusiasm in South Dakota and its neighboring states throughout the farm belt, where support for the president crossed party lines. Endorsing Roosevelt in 1936 were Senators George W. Norris of Nebraska, Henrik Shipstead of Minnesota, and Robert M. La Follette, Jr., of Wisconsin, three distinguished public servants who had long advocated farm relief but had never affiliated with the Democratic party.[8]

In late August, prior to launching his formal reelection campaign, Roosevelt traveled through several midwestern states on a drought-inspection trip. The president visited South Dakota from 28 to 30 August, participating in drought-crisis conferences in Pierre and Rapid City. Roosevelt's presence in South Dakota generated a substantial amount of favorable publicity around the country, and the chief executive frequently reminded South Dakotans of his administration's unwavering commitments to agriculture and conservation.[9]

At Aberdeen on 28 August, the president expressed concern over both the drought and the projected needs of the 1936–1937 winter, stating, "I have been thinking more about the future, for I want to see South Dakota continue to grow and prosper." Acknowledging that the economy of South Dakota was largely dependent upon agriculture, Roosevelt stressed that those who lived in the cities needed to realize that "there would not be any cities if there were not any farms." Urging South Dakotans "to cooperate with Nature," the president concluded: "I have come out here to learn more about the conditions at first hand. I shall take back to Washington with me the picture of a whole lot of people with courage, with their chins up, who are telling us that they are going to see things through. And I am going to help."[10]

Later the same day, Roosevelt delivered an extemporaneous speech at Huron. Voicing optimism about the future, the president asserted that the federal government was "trying to restore this country out through here to a position where we can go ahead in South Dakota to better times, not only in the cities, but on the farms." Confident that the cooperation of South Dakotans would make "the days to come more happy and prosperous than in the past," Roosevelt climaxed his remarks with his own appraisal of the farm situation: "I notice a good deal of change up here from the days when wheat was selling at twenty-five cents and corn at ten cents, even if we have not got so much wheat and corn. And next year we hope that we shall have them and that the prices for them will be higher than they were in the old days."[11] The president also spoke at Mount Rushmore after unveiling the face of Thomas Jefferson on 30 August. In an informal speech, he hailed the memorial to democratic government as an inspiration "not only in our own beloved country, but, we hope, throughout the world."[12]

Although Republican presidential candidate Alfred Landon did not appear in South Dakota during the 1936 campaign, his running mate, *Chicago Daily News* publisher Frank Knox, visited the state in early September. In addresses delivered at Mitchell, Aberdeen, and Rapid City, Knox criticized the Roosevelt Administration for squandering government money and charged that New Deal farm policies had resulted in a loss of foreign markets. Knox assured South Dakotans that the Republican party would not cut relief benefits but would instead eliminate the waste in government programs.[13]

William Lemke, the Union party nominee, confined his 1936 campaign in South Dakota to a single speech in Sioux Falls on 7 October, in which he predicted that he would carry the state in the general election if the race between Roosevelt and Lemke was close. Denouncing the records of both major parties, Lemke declared: "We are through with the reactionary Democrats and Republicans. They are not only breeds of the same cat, but are the same cat." Presenting himself as the true friend of the farmer, Lemke recalled the bills that he and his North Dakota colleague, Sen. Lynn J. Frazier, had authored between 1933 and 1936 calling for massive federal aid for agriculture.[14]

Perhaps the most noteworthy development of the entire 1936 South Dakota presidential campaign was Sen. Peter Norbeck's decision to endorse Roosevelt. A lifelong Republican and highly respected leader of the bipartisan congressional farm bloc, Norbeck, of Redfield, South Dakota, had been elected governor twice and United States senator three times. Despite his Republican affiliation, Norbeck had compiled a virtually unblemished record of support for New Deal legislation. In his 13 October announcement that he favored Roosevelt's reelection, Norbeck credited the president with having fostered business recovery and improved the overall welfare of agriculture.[15]

Republicans met Norbeck's endorsement with dismay, but they took encouragement from the results of two public-opinion polls published in the *Farm Journal* and the *Literary Digest*. The *Farm Journal's* surveys, conducted monthly between August and November, revealed that Landon led Roosevelt in South Dakota by 13.5 to 18.8 percent. The *Literary Digest* findings indicated that Landon would handily carry the state by a margin of 25.6 to 28.9 percent. Both polls predicted that Lemke would not be a factor in the South Dakota election. According to the *Farm Journal*, Lemke would attract a maximum of 7.4 percent of the ballots, while the *Literary Digest* calculated the North Dakotan's proportion at 5.7 percent or less.[16]

The Gallup and Crossley polls indicated a somewhat different political climate in the State. In several surveys conducted between 24 November 1935 and 19 January 1936, the Gallup organization concluded that most South Dakotans favored the president's reelection. In late August, however, the poll placed South Dakota and ten other states in the "borderline Republican" category. In late October, South Dakota was listed in the ranks of fourteen "doubtful" states. The Crossley Poll published the results of three surveys in the autumn of 1936. On 27 September, the poll estimated that Roosevelt and Landon would both receive fifty percent of the popular vote, while on 1 November it projected that the president held a fifty-four-to-forty-six-percent advantage over his Republican challenger.[17]

On 3 November 1936, nearly three hundred thousand South Dakotans went to the polls to choose between Roosevelt and Landon. Early returns showed the president leading his Republican challenger in approximately three-quarters of the state's counties. By midnight, it was certain that Roosevelt would carry South Dakota by at least thirty thousand votes. After all the ballots were counted, Roosevelt had garnered 160,137 votes (54.0 percent); Landon, 125,977 (42.5 percent); and Lemke, 10,338 (3.5 percent).[18]

While the president's plurality of 34,160 votes was far less than his 1932 margin of 84,303, he prevailed over Landon in fifty-four of South Dakota's sixty-nine counties. In addition to winning most of the state's rural areas, Roosevelt also ran well in eight primarily urban counties, although in the largest, Minnehaha County, his margin of victory was only 756 votes:

County	Roosevelt	Landon
Minnehaha (Sioux Falls)	13,174	12,418
Brown (Aberdeen)	9,177	4,505
Beadle (Huron)	5,843	2,965
Pennington (Rapid City)	5,557	4,442
Davison (Mitchell)	4,983	2,510
Yankton (Yankton)	4,349	2,702
Codington (Watertown)	4,256	3,005
Clay (Vermillion)	3,070	[19]1,692

The Republican challenger had captured only fifteen counties, twelve of which were located east of the Missouri River. Landon proved particularly strong in seven counties close to the Minnesota border:

County	Landon	Roosevelt
Brookings	3,899	3,161
Turner	3,214	2,923
Lake	3,182	2,520
Lincoln	2,918	2,541
Kingsbury	2,813	2,037
Hamlin	1,857	1,622
Deuel	1,595	[20]1,440

Interestingly, all seven counties had favored Roosevelt in 1932.

As some pollsters had predicted, Lemke's 10,338 votes had absolutely no impact on the outcome of South Dakota's presidential contest. His candidacy harmed Roosevelt only in Butte County, which Landon carried by six

votes. As a long-time advocate of farm relief and an outspoken congressman from an adjacent state, Lemke was well known in South Dakota. Although he did attract a somewhat higher proportion of the vote in the state than in other parts of the nation, his performance was obviously disappointing. The fact that the president swept most of the state's rural counties indicated that South Dakotans were generally satisfied with the New Deal farm programs and saw no overriding reason to cast a protest vote for Lemke.[21]

In November 1936, across the country, Roosevelt scored the most overwhelming victory in the annals of American presidential elections, defeating Landon by 531 to 8 ballots in the electoral college and 11,068,093 in the popular vote. In nearly all sections of the United States, Roosevelt substantially improved his showing over that of 1932—except in South Dakota and a few other states, where the president's percentage declined. While his support nationwide increased from 57.4 to 60.8 percent, his share of the vote in South Dakota dropped from 63.6 to 54.0 percent.[22]

Roosevelt's overwhelming victory in other areas of the country reflected the fact that by 1936, the problems confronting urban America had begun to preoccupy the president. Such significant New Deal laws as the National Housing Act of 1934, the Social Security Act, and the National Labor Relations (Wagner) Act had enormous importance to tens of millions of citizens clustered in the nation's urban centers. While the president still commanded the loyalty of most farmers in South Dakota and its neighboring agricultural states, his popularity in the industrial states of the Northeast and Midwest had grown significantly. Between the 1932 and 1936 elections, the proportion of the vote Roosevelt received in the industrial states of New York, New Jersey, Pennsylvania, Ohio, Michigan, and Illinois rose an average of 6.8 percent, an increase of 2,348,113 votes.[23]

In 1932, the Roosevelt landslide had resulted in Democrats winning nearly all key South Dakota offices. In 1936, the coattail effects of the president's victory were more limited. Although the Republican party had been unable to deny Roosevelt South Dakota's four electoral votes, it had regained control of both the governorship and the legislature and ousted an incumbent Democrat in the second congressional district. In the gubernatorial race, Republican Leslie Jensen of Hot Springs emerged victorious by a 9,404-vote margin over Democratic incumbent Tom Berry. Republicans registered net increases of ten seats in the state senate and twenty-five seats in the house of representatives. In the second congressional district race, Republican Francis H. Case of Custer prevailed by a vote of 34,812 to 32,549 over Democrat Theodore B. Werner, thus beginning a career on Capitol Hill that would span more than a quarter century. Republicans also made respectable showings in contests for the United States Senate and the first congressional district. Republican Senate candidate Chan Gurney of Yankton secured 49.2 percent of the vote, coming within 6,048 votes of unseating Democratic incumbent William J. Bulow, and Republican Karl E. Mundt of Madison received 49.4 percent of the vote for the House seat, losing the race to Fred H. Hildebrandt by only 2,570 votes.[24]

In South Dakota, a correlation certainly existed between the president's second victory in 1936 and the progress his administration had made in combating the depression. To assert that Roosevelt had ended the depression by November 1936 would be erroneous, but evidence abounded that both the state and the nation as a whole had experienced gradual economic recovery during Roosevelt's tenure. Of paramount importance were the figures both for annual statewide farm income and prices of individual crops. In 1932, South Dakota's farm income from crops, livestock, and government payments had been $56,654,000, while in 1936 the figure had been $103,972,000. This increase of $47,318,000 represented a rise of nearly 54.5 percent and reflected the prices South Dakota farmers received for their crops. The comparative statistics for four major crops were as follows:

Crop	1932	1936
Corn	$0.25 per bushel	$1.08 per bushel
Wheat	$0.34 per bushel	$1.15 per bushel
Oats	$0.10 per bushel	$0.40 per bushel
Barley	$0.16 per bushel	$0.67 per bushel

The outcome of the presidential election of 1936 in South Dakota constituted both a personal tribute to Franklin D. Roosevelt and a basic sympathy on the part of most South Dakotans with the objectives of the New Deal. While South Dakota had been consistently Republican since its admission to the Union in 1889, Roosevelt's dynamic personality and avowed determination to change the nation's economic structure, along with some recognizable success, had profoundly influenced the people of the state.

In no sense did the South Dakota election of 1936 suggest a mandate for the Democratic party. Indeed, the president's victory was considerably more modest than in 1932, and the electorate of South Dakota, while declining to approve Landon's candidacy, had returned control of the state government to the Republicans. Moreover, the extremely close House and Senate contests confirmed that South Dakotans were almost evenly divided over which party should represent them in Congress. In helping to elect Roosevelt to a second term, South Dakotans did not repeat their 1932 repudiation of state Republican party leadership. In voting Democratic at the presidential level in 1936, the citizens of South Dakota continued to affirm their support of Roosevelt's New Deal and act as a barometer concerning midwestern political trends.●

FOOTNOTES

[1]Richard C. Bain and Judith H. Parris, *Convention Decisions and Voting Records*, 2d ed. (Washington, D.C.: Brookings Institution, 1973), pp. 245–50; *New York Times*, 12 June 1936, pp. 1, 12, 27 June 1936, pp. 1, 8, 23 Aug. 1936, pp. 1, 35. Comprehensive accounts of the 1936 presidential campaign can be found in the following works: James A. Farley, *Behind the Ballots: The Personal History of a Politician* (New York: Harcourt, Brace & Co., 1938), pp. 289–327; William E. Leuchtenberg, *Franklin D. Roosevelt and the New Deal, 1932–1940* (New York: Harper & Row, 1963), pp. 175–96; Donald R. McCoy, *Landon of Kansas* (Lincoln: University of Nebraska Press, 1966), pp. 262–339; and Arthur M. Schlesinger, Jr., *The Politics of Upheaval* (Boston, Mass.: Houghton Mifflin Co., 1960), pp. 626–43.

[2]Svend Petersen, *A Statistical History of the American Presidential Elections* (New York: Frederick Ungar Publishing Co., 1963), pp. 67, 70, 74, 78, 81, 83, 86, 89, 91. Between 1900 and 1928, the Republicans won eight of nine contests for the Senate and prevailed in thirty-six of the thirty-nine campaigns for seats in the House. The only South Dakota Democrats serving on Capitol Hill during the period were Sen. Edwin S. Johnson of Platte and Rep. Harry L. Gandy of Rapid City. The sole Democratic governor was William J. Bulow of Beresford, elected in 1926 and reelected in 1928. *Guide to U.S. Elections* (Washington, D.C.: Congressional Quarterly, Inc., 1975), pp. 429–30, 477, 504–5, 690, 695, 700, 705, 710, 715, 722, 729, 734, 739, 745, 749, 754, 759, 764; Lawrence F. Kennedy, comp., *Biographical Directory of the American Congress, 1774–1971* (Washington, D.C.: Government Printing Office, 1971), pp. 983, 1191; Robert Sobel and John Raimo, comps., *Biographical Directory of the Governors of the United States, 1789–1978*, 4 vols. (Westport, Conn.: Meckler Books, 1978), 4:1449–54.

[3]South Dakota, *Legislative Manual* (1933), pp. 297–98, 301–9, 520–34, 536–70; Philip A. Grant, Jr., "Establishing a Two-Party System: The 1932 Presidential Election in South Dakota," *Presidential Studies Quarterly* 10 (Winter 1980): 76–79. For an analysis of the 1932 national election and party platforms, *see* Frank Freidel, "Election of 1932," in *History of American Presidential Elections, 1789–1968*, ed. Arthur M. Schlesinger, Jr., 4 vols. (New York: Chelsea House Publishers, 1971), 3:2707–62.

[4]In 1932, Democrats had won governorships in Ohio, Michigan, Indiana, Illinois, Missouri, Iowa, Wisconsin, Nebraska, and South Dakota, while Minnesota voters had elected the Farmer-Labor candidate. *Guide to U.S. Elections*, pp. 406–7, 415–18, 425, 430, 436. Having won by a mere 5,637-vote margin in 1932, Landon defeated his Democratic opponent by a 62,153 majority in 1934. After the 1934 elections, Republicans held only eight of the nation's forty-eight governorships and one hundred twenty-eight of the five hundred thirty-one seats in Congress. *Guide to U.S. Elections*, pp. 397–437, 485–509, 776–80.

[5]Ibid., pp. 279, 284, 286–87. The following volumes offer scholarly analyses of the Lemke campaign: David H. Bennett, *Demagogues in the Depression: American Radicals and the Union Party, 1932–1936* (New Brunswick, N.J.: Rutgers University Press, 1969), pp. 189–276; Edward C. Blackorby, *Prairie Rebel: The Public Life of William Lemke* (Lincoln: University of Nebraska Press, 1963), pp. 217–31; Donald R. McCoy, *Angry Voices: Left-of-Center Politics in the New Deal Era* (Lawrence: University of Kansas Press, 1958), pp. 142–57.

[6]*Guide to U.S. Elections*, p. 289.

[7]Ibid., pp. 491, 496–97, 501; Kennedy, *Biographical Directory of the American Congress*, pp. 1116–17, 1901; Sobel and Raimo, *Biographical Directory of Governors*, 2:446–47, 3:906–7, 1182, 1230–31, 4:1454–55; *New York Times*, 7 Nov. 1934, pp. 1–2, 8 Nov. 1934, pp. 1–3.

[8]John A. Garraty, ed., *Dictionary of American Biography, Supplement Six (1956–1960)* (New York: Charles Scribner's Sons, 1980), pp. 577–79; Richard Lowitt, *George W. Norris: The Triumph of a Progressive, 1933–1944* (Urbana: University of Illinois Press, 1978), pp. 151–62; Patrick J. Maney, *"Young Bob" La Follette: A Biography of Robert M. La Follette, Jr., 1895–1953* (Columbia: University of Missouri Press, 1978), pp. 189–91. Roosevelt's farm-relief programs are discussed in Frank Freidel, *Franklin D. Roosevelt: Launching the New Deal* (Boston, Mass.: Little Brown & Co., 1973), pp. 83–101, 308–19; Van. L. Perkins, *Crisis in Agriculture: The Agricultural Adjustment Administration and the New Deal, 1933* (Berkeley: University of California Press, 1969), pp. 1–78; Theodore Saloutos and John D. Hicks, *Agricultural Discontent in the Middle West, 1900–1939* (Madison: University of Wisconsin Press, 1951), pp. 452–502; and Edward L. Schapsmeier and Frederick M. Schapsmeier, *Henry A. Wallace of Iowa: The Agrarian Years, 1910–1940* (Ames: Iowa State University Press, 1968), pp. 166–209.

[9]*Sioux Falls Daily Argus-Leader*, 30 Aug. 1936; *Washington Evening Star*, 29, 31 Aug. 1936; *New York Times*, 31 Aug. 1936, pp. 1, 3.

[10]*Public Papers and Addresses of Franklin D. Roosevelt, 1936* (New York: Macmillan Co., 1938), pp. 307–8.

[11]Ibid., pp. 308–9.

[12]Ibid., pp. 309–10.

[13]Edward T. James, ed., *Dictionary of American Biography, Supplement Three (1941–1945)* (New York: Charles Scribner's Sons, 1973), pp. 424–26; *New York Herald Tribune*, 11 Sept. 1936; *Sioux Falls Daily Argus-Leader*, 10, 11 Sept. 1936; *Rapid City Journal*, 10 Sept. 1936.

[14]*Sioux Falls Daily Argus-Leader*, 8 Oct. 1936.

[15]Ronald L. Feinman, *Twilight of Progressivism: The Western Republican Senators and the New Deal* (Baltimore, Md.: Johns Hopkins University Press, 1981), p. 106; Gilbert C. Fite, *Peter Norbeck: Prairie Statesman*, University of Missouri Studies, vol. 22, no. 2 (Columbia, 1948), pp. 202–4; *Sioux Falls Daily Argus-Leader*, 14 Oct. 1936.

[16]*Farm Journal* 60, no. 8 (Aug. 1936): 18, no. 9 (Sept. 1936): 19, no. 10 (Oct. 1936): 17, and no. 11 (Nov. 1936): 17; Literary Digest 122, no. 14 (3 Oct. 1936): 7, no. 15 (10 Oct. 1936): 7, no. 16 (17 Oct. 1936): 7, no. 17 (24 Oct. 1936): 9, no. 18 (31 Oct. 1936): 5.

[17]George H. Gallup, *The Gallup Poll: Public Opinion, 1935–1971*, 3 vols. (New York: Random House, 1972),

1:3–4, 6, 10, 32–33, 38; *New York American*, 27 Sept., 25 Oct., 1 Nov. 1936.

[18]Richard M. Scammon, comp. and ed., *America at the Polls: A Handbook of American Presidential Election Statistics, 1920–1964* (Pittsburgh, Pa.: University of Pittsburgh Press, 1965), pp. 404–5; *Sioux Falls Daily Argus-Leader*, 4, 5, 6 Nov. 1936.

[19]Scammon, *America at the Polls*, pp. 403–5.

[20]Ibid., pp. 402–5.

[21]Ibid. In 1936, Lemke's 892,492 ballots accounted for 1.96 percent of the nation's total votes. Lemke polled the following proportions in South Dakota and the surrounding farm states: South Dakota, 3.5 percent; Nebraska, 2.1 percent; Iowa, 2.6 percent; and North Dakota, 13.4 percent. *Guide to U.S. Elections*, p. 290.

[22]*Guide to U.S. Elections*, pp. 251, 289–90.

[23]Ibid., pp. 289–90.

[24]*Guide to U.S. Elections*, pp. 430, 504, 784; South Dakota, *Official Directory and Rules of the Senate and House of Representatives, Twenty-fifth Session of the Legislature of South Dakota, 1937–1938*, pp. 22–26, 43–49; *Biographical Directory of the American Congress*, pp. 714, 1043, 1454; Sobel and Raimo, *Biographical Director of Governors*, 4:1455.

[25]South Dakota, Cooperative Crop and Livestock Reporting Service, *Agricultural Statistics, Annual Report, 1937* (Sioux Falls, S. Dak., [1937]), pp. 12–13, 57, 61–63.

PRIMARY IMMUNE DEFICIENCY

• Mr. D'AMATO. Mr. President, I rise today to offer my support to legislation designating the week of April 18, 1993, as Primary Immune Deficiency Awareness Week.

Today, approximately 500,000 Americans, most of them children, are affected by primary immune deficiency, a condition which cripples the immune system. Because PID can take 70 different forms, diagnosis and treatment are difficult, yet early intervention is a key to successful management of this condition. Public awareness of PID and its symptoms is critical to early diagnosis and treatment.

The Jeffrey Modell Foundation at the Mount Sinai Medical Center in New York City is the primary source of PID information in this country and houses the only laboratory devoted exclusively to research in primary immune deficiency. Fred and Vicki Modell formed this organization after the death of their son Jeffrey, who suffered from primary immune deficiency, in order to fund research, educate physicians and patients, and offer support services to sufferers and their families. The Modells remain active in getting the message of PID to the public, but they need our help.

I am pleased to join Senators LIEBERMAN, DODD, and COHEN as an original cosponsor of Primary Immune Deficiency Awareness Week, and I urge my colleagues to join me in supporting its immediate passage.•

STEINBRENNER BAILOUT

• Mr. MCCAIN. Mr. President, I want to focus the Senate's attention on a story from the Washington Post entitled "How Congress Delivered for Steinbrenner." This story provides dramatic evidence that the authorization/appropriations system in the Senate is not functioning. Simply, the appropriations process is broke, and the result is that the American taxpayer is forced to fund wasteful, unneeded pork barrel projects.

Mr. President, this is no trivial matter. We face an enormous budget deficit while there are many worthwhile programs that this body should support. But, the amount of pork being passed by the Congress is a disgrace and it must be stopped.

The system under which the appropriations process functions is designed to eliminate such wasteful projects. Under ideal circumstances, authorizing committees would hold public hearings on authorizing bills. Next these bills would be debated on the floor. Upon passage, the Appropriations Committee would fund projects as authorized, bearing in mind budget and other fiscal constraints. Thus only projects that met the scrutiny I just outlined would be funded.

However, and most unfortunately, the process is broken and countless billions of dollars are earmarked to fund pet projects that have never been authorized or even debated on the floor.

Mr. President, the Post article I mentioned describes the perfect example of what is wrong with the current appropriations system.

As relayed in the article, this dispute began in 1987 with an agreement by Steinbrenner to convert and refurbish a pair of crane ships for a fixed price of $43.1 million and a 1989 pact to complete two fuel supply ships for $49 million.

The Washington Post notes that Federal officials say that "Steinbrenner bid unrealistically low to win the fixed-price contracts, hoping that he could recover later through appeals for reimbursement." When the job was complete—and Mr. President I repeat for emphasis, this was a fixed-price contract—the Navy and the Maritime Administration offered minor price adjustments.

Steinbrenner then went to court to seek the money he claimed was owed him due to unforeseen costs, suing for $13.3 million for the crane ships and $24 million for extraordinary contractual relief, for a total of $37.3 million.

But Mr. President, at the same time George Steinbrenner had another plan of action. He hired two high-paid power lobbyists to procure the funds he sought through congressional largess. Although Government investigators have stated, according to the Post, that "Steinbrenner was trying to charge the Government for mistakes made by his workers," the Congress earmarked $58 million in the Defense Department's 1993 budget for Steinbrenner.

The normal process would have been to hold hearings on this subject and debate it on the floor, as I detailed earlier. However, without any authorization, without holding any hearings, and without this subject ever being debated on the floor, a $58 million earmark for Steinbrenner's company appeared in the bill that passed the Senate. Against the advice of Government investigators, the Congress gave George Steinbrenner $58 million in pork, $20.7 million more than Mr. Steinbrenner requested in his lawsuit.

Mr. President, let me state one reason why wasteful pork is so detrimental. Since Operation Desert Storm/Desert Shield, we have forced approximately 300,000 men and women from the military. If current estimates for the military hold—and I have every reason to believe that President Clinton may seek even larger cuts—some 350,000 additional men and women will be forced to leave the service of their Nation.

To clarify, these individuals we are forcing to leave the military are not wealthy. They are predominantly minorities and others of moderate means. They voluntarily joined the military not only to serve their country, but to have a better chance of realizing the American dream.

And Mr. President, I most certainly assure you, none of them owns professional baseball teams.

Unfortunately, this sad example of pork barrel politics is not an isolated occurrence. From studies on cow flatulence, to belgian endive research, to baseball teamowner bailouts, it is unconscionable that the Congress is willing to spend taxpayer dollars on wasteful projects that do nothing to better the lives of ordinary Americans. At the same time we tell hundreds of thousands of hard-working, loyal American men and women in uniform that they are out of jobs.

Mr. President, this is not a partisan issue. It is an issue of supporting profligate waste or doing what is right. I invite every Member of this Senate to come to Arizona with me, visit the unemployment offices around my State, and talk to these people who we put on the streets, and then defend bailing out George Steinbrenner.

Mr. President, the Steinbrenner incident demonstrates why it is imperative that we adopt the line-item veto and do so now. The President would then be empowered to veto this disgraceful waste of taxpayer dollars. The line-item veto will not alone result in Congress becoming more responsible or eliminate the budget deficit, but it is a crucial first step in the process.

Mr. President, I am outraged and I am putting the Senate on notice that I may, at any time, come to this floor and offer the line-item veto. The time for talk is over. We must act.

President Clinton has stated that we must all sacrifice. To my colleagues who are so in love with pork, I ask that you pay special heed to President Clinton's words. Let us put aside party affiliation, let us put aside institutional

turf wars, and let us finally do what is right by giving the President the line-item veto.

Mr. President, I ask that the text of the Washington Post article I referenced be printed in the RECORD at the end of my remarks.

The article follows:

[From the Washington Post, Feb. 2, 1993]

HOW CONGRESS DELIVERED FOR STEINBRENNER

(By Jim Drinkard)

New York Yankees owner George Steinbrenner failed in the first round of contract dispute with the government. But his second try was a sweet success—a $58 million bailout for his family shipbuilding business provided quietly by Congress.

Steinbrenner, a contributor to key legislators, enlisted two lobbyists with connections to the appropriations subcommittees that control Pentagon spending.

Last October, without a single public hearing and without consulting the government officials who had steadfastly refused to pay the claims, Congress quietly added the money to the Defense Department's 1993 budget.

The final amount ordered paid to Steinbrenner's Tampa shipyard was even more than he originally sought in negotiations and in a lawsuit he filed against the Navy and U.S. Maritime Administration.

"It's bad public policy," said Patrick Morris, deputy administrator of the Maritime Administration. Congress, he said, was meddling in an area where it had no proper role.

"Every single major shipyard in this country has had problems with the Navy on their contracts," Steinbrenner said.

The Navy would not discuss the case. "The Navy's not going to bite the hand that feeds it," said one Pentagon official.

The dispute arose over a 1987 agreement to convert and refurbish a pair of crane ships for a fixed price of $43.1 million, and a 1989 pact to complete two fuel supply ships for $49 million.

The shipyard, like many others in the industry, was starving for work at the time. Federal officials say Steinbrenner bid unrealistically low to win the fixed-price contracts, hoping that he could recover later through appeals for reimbursement.

But Steinbrenner said the government saddled him with "rust buckets" that required more extensive repairs than he expected.

The Navy and the Maritime Administration offered minor price adjustments, but sought for the most part to make the yard honor its fixed-price contract.

Steinbrenner went to court, suing to recover $13.3 million in overruns on the crane ship contract and $24 million in "extraordinary contractual relief" on the Navy oilers.

But soon after, he set his sights on Rep. John P. Murtha (D-Pa.) and Sen. Daniel K. Inouye (D-Hawaii), the chairmen of the House and Senate Appropriations defense subcommittees.

Last spring Steinbrenner dispatched two lobbyists to Capitol Hill. Paul Magliocchetti, an aide on the House subcommittee from 1981 to 1987, approached Murtha. William F. Ragan, a longtime Inouye supporter and fund-raiser, approached the senator.

Both lobbyists had made political contributions to Murtha and Inouye; Steinbrenner was a regular giver, too. He had donated $4,000 to Inouye in 1987, when the senator was mounting an unsuccessful bid to become Senate majority leader, and gave Inouye and Murtha $1,000 each for last year's elections. His American Ship Building's political action committee also donated to both.

Steinbrenner said he began pushing his interests on the political front only after another shipyard, Bethlehem Steel's facility at Sparrows Point, Md., won its own $40 million bailout from Congress.

When Inouye and Murtha won final passage of their bill Oct. 5, it contained provisions awarding American Ship the full $13.3 million it had sued for on the crane ships—rendering moot the government's efforts to fight it in court—and ordering a $45 million additional payment for the oilers, about $20 million more than Steinbrenner originally sought.

Murtha said his action was an attempt to find "an equitable solution" after the problems were brought to his attention by Magliocchetti and Florida Reps. C.W. Bill Young (R) and Sam Gibbons (D).

"Every shipyard's in trouble," Murtha said. "The incentive to cheat is such a problem. They low-ball them [contracts], and then they can't do the work. That's the position they have to take."

But government investigators said Steinbrenner was trying to charge the government for mistakes made by his workers. For example, welders accidentally cut into electrical cables, requiring the cables to be repaired, and a fire on one ship damaged other electrical cables.•

IN CELEBRATION OF BLACK HISTORY MONTH

• Mr. RIEGLE. Mr. President, each February Americans review the vital contributions of individuals of African descent during Black History Month. As we reexamine the lives of African-Americans we are inspired by the courage, talent, and determination of those men and women who have made a difference, often in the face of extraordinary obstacles.

For far too long, we have not adequately recognized how much African-Americans have meant to our society. Just as racial barriers have prevented many citizens from enjoying full opportunity in our past and continue to exist in the present, bias has also prevented many accomplished and influential men and women from gaining the recognition they deserve. As a result, we have not had an accurate representation of our past.

Our celebration of Black History Month is critical in filling in the missing elements in our history and gaining a full understanding of how our world has been shaped. The struggle for a better America has deep roots in our history and African-American Michiganians have led the way. African-American men and women have contributed in all areas of American life.

African-Americans from Michigan have been leaders in education and technology. Michigan has benefited from the work of Violet T. Lewis, who founded the Lewis College of Business, Michigan's only chartered historically black college. The well-known inventor Elijah McCoy, who made important advancements in the design of railroads and industrial technology, was from Michigan.

African-Americans from Michigan have been pioneers in business and the workplace. Detroit citizen Ed Davis overcame racial barriers and through talent and hard work earned the opportunity to become the first African-American to own a new car dealership. Mozelle McNorriel who represents the American Federation of State, County, and Municipal Employees became a trailblazer when she was elected vice-president of that union. Up to that time, no woman had been elected to that high of a position in the American labor movement.

African-Americans have served their Nation honorably and with a level of excellence in international affairs. Ralph Bunche, who was from Detroit, won the Nobel Peace Prize for his work in mediating peace in the Middle East.

Today, African-Americans from Michigan are serving their Nation in Somalia and the Middle East. They are following in the footsteps of many other African-Americans who have answered the call of duty. The brave men and women serving in the Armed Forces are undertaking valuable work. Our thoughts and prayers are with them as we hope that they will all return home safely and quickly.

African-Americans have made vital contributions fighting for equality and in making our country what we want it to be. Sojourner Truth, a woman born into slavery, did much to change our history. She lived much of her life in Battle Creek. In addition to fighting racial discrimination, Sojourner Truth was a powerful leader in promoting equal rights for women.

We in Michigan are proud of the thousands of our fellow citizens who bravely battled for a better America in the civil rights movement. Detroit is home to one of the shining figures in the history of the fight for justice and equality: Rosa Parks. Ms. Parks' courage and determination in fighting discrimination was an example to the country and her commitment endures to the present. Rosa Parks, in her courageous confrontation of injustice, worked closely with Dr. Martin Luther King, Jr. His life fundamentally transformed our Nation. We are fortunate that his widow, Coretta Scott King, continues his work.

The civil rights movement spurred the Nation forward and helped to open our government to greater participation by more citizens. African-Americans have pushed us closer to our ideal of having a government "of the people." The late Floyd J. McCree was one of the pioneers. Mr. McCree was among the first African-American mayors of a major American city when he became the mayor of my hometown of Flint in 1966.

Michigan was home to Cora M. Brown who was one of the first African-American women to serve in high office in a Presidential administration when she was appointed to Assistant General Counsel to the U.S. Postmaster in the 1950's. Prior to that, she served in the Michigan State Senate. Mrs. Olive Beasley of Flint continues in the strong tradition of African-Americans who have served in Government. She was instrumental in the creation of the Michigan Fair Employment Practice Commission.

Finally, as we celebrate Black History Month this year, we do so with the vivid memory of Justice Thurgood Marshall fresh in our mind. With the recent death of Justice Marshall, we have lost one of our strongest voices for American ideals of social justice and equal opportunity. His legacy will endure far into the future and we are extraordinarily grateful for his service.

These men and women are only a few of the great citizens who have added much to our Nation. Americans around the country will have the opportunity during Black History Month to learn about the countless others who have enriched our history.

By reviewing the courageous and inspiring work of African-Americans we are moved to carry on the fight for a better society. In our celebration of Black History Month we gain appreciation for what Americans can do. Let us take this time to reinvigorate our commitment to making our Nation what we want it to be: A society in which every single citizen has a fair chance to make full use of his or her talents.●

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SCHEDULE

Mr. MITCHELL. Mr. President, there will be no rollcall votes this evening. Pursuant to the order obtained earlier today, there will be a vote on the Craig amendment at 10 a.m., and pursuant to the order just obtained, if Senator GORTON offers an amendment or amendments at 9:30 tomorrow, there will be votes on that amendment, or those amendments, immediately following disposition of the Craig amendment.

So there will be a recorded vote at 10 a.m. tomorrow and the possibility of two votes following that, a minimum of one vote, maximum of three votes, depending upon what happens to the Gorton discussions with the managers this evening and his amendments tomorrow morning.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:15 a.m., on Wednesday, February 3; that following the prayer, the Journal of the proceedings be approved to date and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 9:30 a.m., with Senator GRASSLEY recognized for up to 10 minutes and Senators permitted to speak therein.

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

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. MITCHELL. If there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:08 p.m., recessed until Wednesday, February 3, 1993, at 9:15 a.m.