Mr. BYRD. Mr. President, I ask unanimous consent to address the Senate for not to exceed 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator may proceed for 5 minutes.

Mr. BYRD. Mr. President, may we have order in the Senate.

The PRESIDING OFFICER. Will Senators please take their chairs.

The Senator seeks to address the Senate for 5 minutes. The Chair asks that Senators please clear the aisles.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I want to correct something I said last night I see in the RECORD.

I said last night that Brutus married the sister of Cato. Actually, Brutus was the son of Servilia, who was the sister of Cato—just to make that little correction for the record.

Mr. President, the Senate by a decisive vote has moved to table the matter presented to the Senate by Mr. HARKIN. This will not be the last time the effort will be made to amend rule XXII. That is why I impose on the Senate for these few minutes while there is something of a larger audience than there was last night and this morning. And I want to compliment the distinguished Senator from Iowa and the distinguished Senator from Connecticut. I thought we had some good exchanges in this debate.

But while there are Senators who are listening, let me point out to them, as I have pointed out in this debate, paragraph 2 of Rule VIII of the Standing Rules of the Senate.

Mr. President, most of the so-called filibusters have occurred on motions to proceed. Once that motion to proceed is approved, once the matter itself is taken up, generally the filibusters have gone away. It has too often been the practice here of late that when the leader asks unanimous consent to take up a matter, there is an objection heard from the other side of the aisle, and that is then called a filibuster. The leader immediately puts in a cloture motion. That is all the debate there is on that matter for the next few days. That is called a filibuster. And it goes out over the land what a horrendous thing this filibuster is, and Senators stand up here with these charts and point out how many times—10 times—as many filibusters in the last year as there were in the last 100 years, or something to that effect. Well, these are really not filibusters.

I think the rule has been abused. But I do not think we ought to take a sledgehammer to kill a beetle.

We have the standing rules here. Let me read paragraph 2, rule VIII. Senators should know what is in the current rules before they start so-called reforms of the Senate and of the rules.

Rule VIII, paragraph 2:

All motions made during the first two hours of a new legislative day to proceed to the consideration of any matter shall be determined without debate, except motions to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable.

As I ascertained through a parliamentary inquiry earlier today, that rule was never used in the last session.

So, Mr. President, the rules are here. The type of filibuster, the type of so-called filibuster that we have seen recently, which is filibuster by delay, with no debate on it, is not good. But most problems with this filibuster can be addressed within the existing rules, and I have just read the rule which has not been used. It was not used in the last session. It was not used in the session before that. And yet we complain about there being so many filibusters.

Mr. President, we can handle most of the minifilibusters around here. If there is a sizable minority, one that consists of 41 Members, that is a large minority. That minority may represent a majority of the people outside the beltway. Who knows?

I maintain that, as long as the United States Senate retains the right of unlimited debate, then the American people's liberties will not be endangered.

They do not have unlimited debate on the other side of the Capitol, and there are those over there who want the Senate to do away with the filibuster. But under the Constitution, each House shall determine its own rules. It is not my place to attempt to tell the other body what they should do with their rule. But this rule has been in effect since 1806 when the Senate did away with the previous question, when it recodified the rules in 1806. And it did so upon the recommendation of Aaron Burr, the Vice President, who, when he left the Senate in 1805, recommended that the previous question be done away with. It had not been used but very little during the previous years since 1789. So that rule on the previous question, which is to shut off debate, was eliminated from the Standing Rules of the Senate and it has been out of there ever since.

So, Mr. President, I commend Senators for voting to table the Harkin amendment. I also commend those who differ with me. I commend those who offered the amendment to change the rule. I think the Senate has acted wisely in retaining the rule that has governed our proceedings since 1806. I hope that Senators will read the Standing Rules of the Senate.

I thank all Senators for their patience.

The PRESIDING OFFICER (Mr. SHELBY). The question now is on the adoption of the resolution.

The resolution (S. Res. 14) was agreed to, as follows:

S. RES. 14

*Resolved*, That paragraph 2. of Rule XXV of the Standing Rules of the Senate is amended for the 104th Congress as follows:

Strike ''18'' after ''Agriculture, Nutrition and Forestry'' and insert in lieu thereof ''17''.

Strike ''29'' after ''Appropriations'' and insert in lieu thereof ''28''.

Strike ''20'' after ''Armed Services'' and insert in lieu thereof ''21''.

Strike ''21'' after ''Banking, Housing and Urban Affairs'' and insert in lieu thereof ''16''.

Strike ''20'' after ''Commerce, Science, and Transportation'' and insert in lieu thereof ''19''.

Strike ''20'' after ''Energy and Natural Resources'' and insert in lieu thereof ''18'';

Strike ''17'' after ''Environment and Public Works'' and insert in lieu thereof ''16''.

Strike ''19'' after ''Foreign Relations'' and insert in lieu thereof ''18''.

Strike ''13'' after ''Governmental Affairs'' and insert in lieu thereof ''15''.

Strike ''14'' after ''Judiciary'' and insert in lieu thereof ''18''.

Strike ''17'' after ''Labor and Human Resources'' and insert in lieu thereof ''16''.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

The PRESIDING OFFICER. The Senate will now proceed to S. 2. The clerk will report.

The bill clerk read as follows:

A bill (S. 2) to make certain laws applicable to the legislative branch of the Federal Government.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The majority leader.

## RESOLUTION AMENDING RULE XXV

Mr. DOLE. Mr. President, I send an unrelated resolution to the desk and ask for its immediate consideration. It has to do with committee assignments. I think it has been cleared on both sides.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 27) amending rule XXV.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to.

The resolution (S. Res. 27) reads as follows:

*Resolved*, That at the end of Rule XXV, add the following:

A Senator who on the date this subdivision is agreed to is serving on the Committee on Armed Services, and the Committee on Environment and Public Works, may, during the One Hundred Fourth Congress, also serve as a member of the Committee on Governmental Affairs, but in no event may such Senator serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

## THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, we are now on the bill to extend coverage to the Congress? Is that the bill before the Senate?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Mr. President, there has been some comment concerning my activities regarding this bill at the end of last session. I want to state for the RECORD what happened.

Right toward the end of the session, there was an attempt to call up the bill. I had an appointment with a physician to check a basic problem—we thought it was a sheared hamstring muscle—and I asked my friend from Mississippi, Senator LOTT, if he would object to bringing the bill up until I had a chance to see it. The Rules Committee had one version of the bill and I believe Governmental Affairs had another. I wanted a chance to examine that bill. To my dismay at the time, the problem I perceived I had was not the problem and 14 hours later I underwent a very serious, major operation on my spine. I never returned to the Senate.

I did not intend to block the bill. I did have a request that I be able to see the bill, but since I never got back to the Senate, to my knowledge no attempt was made after that time to raise the bill. But I have heard comment again this morning, in the press, that I had filibustered the bill. That is not true and I think the RECORD should show my request was a request to examine the bill. I never had the opportunity to do that since I never got back to the Senate during that part, the last part of the Senate, due to that operation.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I thank the Chair.

(The remarks of Mr. BUMPERS and Mr. LEAHY pertaining to the introduction of S. 151, S. 152, S. 153, S. 154, S. 155, S. 156, and S. 157 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GRASSLEY. Mr. President, I am very pleased that the first bill that the 104th Senate will consider is the Congressional Accountability Act. This bill presents the opportunity to show the country that the Senate has listened to the American people. We will demonstrate that the new Senate knows that the American people want us to end business as usual.

I appreciate the leadership that Senator LIEBERMAN has provided on this legislation over the years. He is equally committed to reforming Congress. Our views on this legislation are identical. And I am pleased that the task of congressional coverage has benefited from a bipartisan approach.

I also wish to thank Senator DOLE for bringing up this legislation. His commitment to this legislation is outstanding. He is a true reformer in the best sense of the word. And he is committed to ending the injustices that have existed for congressional employees for so many years. The majority leader established a number of working groups to advise him on measures that should be taken in the 104th Senate. Senator FRED THOMPSON and I cochaired the Working Group on Congressional Coverage. I know that Senator THOMPSON has worked hard on this legislation, and I appreciate his assistance in this effort. It is an auspicious beginning to his career as a Senator. Other members of the working group included Senators NICKLES, GORTON, SMITH, STEVENS, ABRAHAM, COATS, and HUTCHISON.

Moreover, our efforts to ensure congressional compliance with the laws it passes benefited from Senator ROTH's willingness to let this legislation be brought to the floor immediately. Additionally, Senator GLENN worked on the issue over quite a few years when he chaired the Governmental Affairs Committee. I am also delighted that this bill has dozens of cosponsors, from both parties, all parts of the country, and all across the ideological spectrum.

This bill represents the culmination of an effort that I began several years ago, when I first attempted to offer an amendment to a civil rights bill that would have brought Congress under labor and employment laws. That attempt failed, as did my attempt to amend the Americans With Disabilities Act in 1989. My amendment was accepted by the then-Senate leadership but was rendered ineffective in conference. And I was not even allowed to offer my amendment to the family leave bill when the Senate debated it in 1991.

Congress can no longer refuse to live by the laws it passes. The time is long overdue for Congress to correct this practice, and that is what this bill does. It completes the process begun in 1991 when the Senate passed the Grassley-Mitchell amendment applying the substantive provisions of the civil rights laws to the Senate. As I said back then, it was a good beginning—but only a beginning. So it is with some measure of satisfaction that I find myself speaking in favor of a bill that would finally require Congress to comply with a host of employment laws it has enacted for the private sector.

Mr. President, since the 1930's Congress has passed laws that flowed from the assumption that Washington knew best. Congress set up burdensome statutory requirements on the operation of small businesses in this country. The burdens were increased through regulations issued by executive branch agencies pursuant to the statute.

At the same time, Congress repeatedly exempted itself from the effects of those laws. Laws governed America, but not Congress. Workers were granted rights, but congressional workers were not. Those who made the laws did not live by them. Congress was immune from the excesses of the regulatory state. Congress became removed from the way its work affected everyone else.

In this country, no one is above the law. But just as the Presidency suffered a tremendous loss of public confidence when an individual thought he was above the law, Congress suffered as Members thought they were above the law. Indeed, to me, this was one of the major reasons why Congress lost touch with the people. And it was one of the ways by which Congress displayed arrogance. Millions of Americans complained about the overreach of the Federal Government, but Congress, through its exemption from the law, could not know the depth of feeling from the grassroots. In November, the American people demanded that Congress be affected by the laws it passes. A number of Members who thought Congress should be above the law are no longer Members and no longer above the law.

Let me remind my colleagues of someone who lost an earlier election, former Senator George McGovern. Senator McGovern believes that Congress has enacted unnecessary regulatory burdens that are strangling small business. Senator McGovern admits that he did not feel that way when he was a Member of this body, but he learned the reality of the operation of that legislation when he ran a small business after leaving office. I appreciate that Senator McGovern now says that he would have legislated differently had he known what the actual effects would have been.

But Members of Congress learning of the effects of their votes only after leaving office will not solve the problem. Then, it is too late. Only if Members of Congress live with the consequences of their votes will the problem that Senator McGovern identified be corrected.

I think that President Clinton has this issue exactly right as well. When we send this bill to him, he will sign it. As he stated in a July 1992 interview, ''It's wrong for Congress to be able to put new requirements on American business as employers and then not follow that rule as employers themselves. They exempt themselves, historically, from all kinds of rules that private employers have to follow. And I think that one of the things that happens to people in government is they forget what it's like to be governed. They don't have any idea what it's like to be on the receiving end of a lot of these rules and regulations.''

Of course, the Founding Fathers would be astonished to know that Congress had exempted itself from so many laws that it passed for the private sector. James Madison in Federalist 57 wrote that one of the primary guarantees of the people's liberty came from Congress living by whatever laws it passed. Madison wrote that Congress ''Can pass no law which will not have its full operation on themselves and

their friends, as well as on the great mass of society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them the communion of interest * * * of which few governments have furnished examples, but without which every government degenerates into tyranny * * * if this spirit ever be so far debased as to tolerate a law not obligatory on the legislature as well as on the people, the people will be prepared to tolerate anything but liberty.''

Mr. President, Madison was right. Of course, the low esteem in which Congress is currently held reflects the fact that there is no longer congruence of interests between the governors and the governed. The American people will no longer tolerate a law not obligatory on the legislature as well as the people.

Under Madison's principle, because Members of Congress would be careful before they infringed their own liberties, the people's liberties would be zealously protected.

Unfortunately, the corollary to the principle was equally true. Members of Congress who could protect their own liberties while infringing on the liberties of others were much more likely to fail to protect others' liberties. Congress enjoyed privilege through exemption. The time has come to end congressional royalism. The time has come to end the exemptions. Now, Congress must finally live under the same laws it passes for everyone else, to fulfill Madison's promise of the Constitution. And, now, employees of Congress must finally gain the same rights that their counterparts in the private sector enjoy.

Like my colleagues, I take the notion of representative government very seriously. We are not Senators for ourselves. We do not hold this job as a matter of personal privilege. We are here to represent the interests of our constituents, our States and our country, and for no other reason. I think that exemptions from the operation of law interfere with representative government. I wonder how we truly can represent people who live by one set of laws when we live under different laws. Under the current system, our votes on various regulatory issues reflect our interests and not our constituents'. This must change if representative government is truly to function.

When we pass this bill, we begin to restore the American people's faith in Congress. We will do so in five respects. First, we ensure that Members of Congress will know firsthand the burdens that the private sector lives with. By knowing those burdens, Congress may decide that the laws indeed are burdensome. That realization may lead to necessary reform of the underlying legislation. It is true that there will be additional costs imposed on Congress if this legislation passes. However, these are costs that the private sector has had to live with for years. And the Congressional Budget Office has estimated that costs of compliance will be only about $3-to-$4 million. While that is a considerable sum, it represents, for instance, only a fraction of the amount that Congress recently voted for a subway system to connect the Senate office buildings with the Capitol.

The second benefit of requiring that Congress live under the laws it passes for others concerns future social legislation. If Congress knows that it will be bound by what it passes, Congress will be more careful in the future to respect the liberties of others.

Third, passage of the bill will mean that congressional employees will have the civil rights and social legislation that has ensured fair treatment of workers in the private sector. Congress is the last plantation. It is time for the plantation workers to be liberated. Maybe it is more accurate to say that Congress and the judiciary are the last two plantations. Curiously, the only people who do not have to comply with the law are those who make the law and those who decide the cases under those laws. The judiciary has often interpreted legislation to be burdensome, perhaps in some instances, to be more burdensome than even the exempt Congress intended. Of course, an exempt judiciary has no reason to interpret the statute in a way to protect freedom. Under this bill, the judiciary will have to come up with a plan to provide coverage for its employees as well. I look forward to that proposal, and to enactment of legislation to cover the judiciary.

The fourth general result of this legislation will be a public recognition that Congress has again discovered that it is subject to the will of the people, not the other way around. Congress will no longer be above the law. Members of Congress will no longer be first class citizens with unjustifiable special privileges.

And fifth, Members of Congress will learn themselves of the litigation explosion that is choking small business in the country. When they see directly the litigation produced by the laws they pass, Congress will be very careful about creating additional liabilities for the private sector and additional work for the Federal courts. When they see how alternative dispute resolution operates, Members of Congress may appreciate the wisdom of encouraging additional alternative dispute resolution for all sorts of claims brought in the Federal courts.

Every indication from polls, election returns, and the mail that we have received from constituents shows that nothing makes Americans madder than knowing that they have to live by laws that their Representatives in Congress do not. They are well justified in their anger. When we pass this bill, we will show them that we recognize the unfairness of the existing exemptions and the legitimacy of their concerns.

S. 2 is the pending business under unusual circumstances. It has not been considered by any committee in this Congress. Nonetheless, it bears a close resemblance to S. 2071 from the 103d Congress.

That bill was the subject of hearings in the Governmental Affairs Committee, and it was approved by the committee for floor consideration.

Unfortunately, the bill was not able to be considered before the Congress adjourned, despite the fact that the other body had passed similar legislation.

Although the Governmental Affairs Committee did issue a report to accompany S. 2071, this particular bill does not have a committee report. Although S. 2 is quite similar to S. 2071, there have been changes made in consultation with leaders from the other body.

Accordingly, it will be necessary, in lieu of a committee report, for me to first describe the bill generally, and then to detail each aspect of the bill.

S. 2 begins with the basic premise that the laws that govern the private sector should govern Congress unless it can be shown that important differences between Congress and the private sector justify some amount of change. The provisions of S. 2 also flow from a belief that judicial enforcement of the laws against the Congress is vital if those laws are to meaningfully apply.

I strongly disagree with the implications of today's Washington Post article on the congressional coverage bill. That article implies that Congress is already covered under many of these laws and already lives under them, and that all that is changing is the remedies. That analysis misses the point. Let me provide an analogy.

The Soviet Union's Constitution guaranteed the rights to freedom of speech, freedom of assembly, fair trial, and other rights that are similar to the American Constitution. They existed on paper. Any Soviet citizen could pull out that document and see that those rights existed. But of course, the rights guaranteed by the American Constitution are a reality and the rights guaranteed by the Soviet Constitution were an illusion. The reason for the difference: The American Constitution is enforced by an independent judiciary and the Soviet Constitution was not. The Soviet rights were nothing because there was no remedy.

Similar to the Soviet Constitution, it is true that some of the laws this bill will apply to Congress already can be found in the United States Code as applying to Congress. But the remedies to make those rights exist in more than name only do not.

''The history of liberty is the history of procedures for protecting liberty,'' Justice Frankfurter once wrote, and until this bill is passed, congressional employees lack the remedies necessary to protect liberty.

S. 2 will apply 11 laws to Congress that are either completely or partially

inapplicable now. Those 11 laws are the Federal Labor Standards Act of 1964, title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, the Family and Medical Leave Act of 1993, the Occupational Safety and Health Act of 1970, the Federal Service Labor Management Relations Act, the Employee Polygraph Protection Act of 1988, the Worker Adjustment and Retraining Notification Act, the Rehabilitation Act of 1973, and the Veterans Reemployment Act.

The bill provides different mechanisms for enforcement of these laws that correspond to their application to the private sector.

If the underlying law provides for a private right of action in court, one model is followed. If the law would be administratively enforced in the private sector, then it is to be administratively enforced against Congress.

For example, the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Rehabilitation Act of 1973, title I of the Americans With Disabilities Act of 1990, the Family and Medical Leave Act, the Fair Labor Standards Act, the Employee Polygraph Protection Act, the Worker Adjustment and Retraining Notification Act, and the Veterans Reemployment Act provide for enforcement through a private right of action in court. Under S. 2, any employee who alleges a violation of these statutes may also bring a private action in Federal district court. This represents the first time that this relief has ever been available to congressional employees. Before the employee may sue in court, however, the employee must exhaust administrative remedies available to him or her. These administrative remedies are the counseling and mediation provisions that now govern Senate employees under the Government Employee Rights Act from 1991 that Senator Mitchell and I drafted.

I would now like to generally describe the operation of the legislation, and then detail its individual provisions.

The purpose of S. 2 is to fully apply antidiscrimination and employee protection laws to Congress.

The bill has eight key elements:

First, rights and protections under key antidiscrimination and employment statutes would fully apply to the House of Representatives, the Senate, the Architect of the Capitol, the Congressional Budget Office, and the Office of Technology Assessment.

Second, a new Office of Compliance would be established to handle claims and issue rules. The office would be headed by an independent board of directors, removable only for cause.

Third, for statutes providing a private right of action, an employee who believes there has been a violation could receive counseling and mediation services from the new office.

Fourth, if such an employee's claim is not resolved by counseling or mediation, the employee may file a complaint with the office and receive a trial and decision from an independent hearing officer. This decision may be appealed to the board and to the U.S. Court of Appeals.

Fifth, instead of filing a complaint with the office after counseling and mediation, the employee may choose to file an action in U.S. District court where a private sector employee could also bring a lawsuit in court. A jury trial may be requested under applicable law.

Sixth, for underlying statutes providing for administrative enforcement exclusively, the office will enforce the statutes administratively. The employee could obtain Court review for actions the office brought that were resolved adversely to the employee.

Seventh, since the General Accounting Office, the Government Printing Office, and the Library of Congress are already covered by antidiscrimination and employee protections laws, coverage would be expanded and clarified in certain regards.

Additionally, the Administrative Conference will undertake a study of the application of these laws to the three instrumentalities, and will recommend any improvements in regulations and procedures and for any legislation.

Eighth, to ensure compliance with these laws by the judicial branch, the Judicial Conference will undertake a study to determine how employees of the judiciary will obtain the rights and remedies conferred by these laws.

BACKGROUND AND NEED FOR LEGISLATION

Current law creates a patchwork of rights and protections for employees of the Senate, the House of Representatives, and the congressional instrumentalities.

Although Congress has made significant progress in extending employment laws to congressional employees, important gaps remain. The remaining exemptions, and significant differences in the manner and extent to which rights under these laws can be enforced, perpetuate the perception, and in at least some cases, the reality—of a double standard of special privilege for the legislative branch. This feeds the growing public cynicism about Congress.

COVERAGE AND GAPS IN COVERAGE OF THE SENATE, THE HOUSE OF REPRESENTATIVES, AND THE CONGRESSIONAL INSTRUMENTALITIES.

First, the Senate.—A number of major antidiscrimination and employment laws enacted in this century did not cover one or both Houses of Congress. Several laws, including Fair Labor Standards Act, the Age Discrimination in Employment Act, and the Civil Rights Act Amendments of 1972, were originally enacted without coverage for congressional employees, even while executive branch employees were expressly covered. The Federal Service Labor-Management Relations Statute and section 19 of the Occupational Safety and Health Act established special programs for the executive branch, different from the corresponding programs for the private sector, but, again, Congress did not cover itself.

The Employee Polygraph Protection Act and the Worker Adjustment and Retraining Notification Act did not apply to the Federal Government at all. Veterans reemployment provisions gave employees of Congress a Ramspeck remedy, but did not provide the private right of action and court access that private sector veterans enjoy.

Over the past 15 years or so, and accelerating in the 1990's, Congress has taken considerable steps to apply these laws to itself. As far back as the 94th Congress, 1975–76, the Senate adopted Senate Resolution 534, which prohibited employment discrimination in the Senate on the basis of race, color, religion, sex, national origin, or handicap, and which encouraged the hiring of women and members of minority groups.

With the passage of the Americans with Disabilities Act in 1990, rights as established in the antidiscrimination laws were accorded to Senate employees.

Enforcement, however, was through internal procedures before the Select Committee on Ethics, rather than through executive branch agencies or the courts. This act also obligated the Senate not to discriminate against members of the public on the basis of disability.

Title III of the Civil Rights Act of 1991, also known as the Government Employee Rights Act, reaffirmed the prohibition against all kinds of employment discrimination in the Senate.

The 1991 act also established an Office of Senate Fair Employment Practices [OSFEP] and proved an internal Senate enforcement procedure consisting of: First, counseling, second, mediation, third, formal complaint and hearing before a board of three independent hearing officers, and fourth, review of the decision by the Senate Select Committee on Ethics.

Finally, an appeal may be taken from the Ethics Committee decision to the U.S. Court of Appeals for the Federal Circuit.

Rights and protections under the Family and Medical Leave Act of 1993 have also been extended to Senate employees. These rights are enforceable through the procedures established in the Civil Rights Act of 1991.

Thus, Senate employees enjoy the rights and protections of all of the antidiscrimination laws, as well as the Family and Medical Leave Act, albeit with a different enforcement mechanism than is provided in the private sector or the executive branch. However, the Fair Labor Standards Act and the Equal Pay Act do not apply to the Senate.

Also, Senate employees do not have a right to trial in U.S. District Court, but they do have a right to trial before a panel of independent hearing examiners, and judicial review by a U.S. Court of Appeals.

Second, the House of Representatives.—In 1988, the House of Representatives adopted the Fair Employment Practices Resolution, House Resolution 558, 100th Congress, which has been renewed and codified in House rule 51. This rule specifics that personnel actions shall be free from discrimination based on race, color, national origin, religion, sex, disability, or age.

In adoption, the protections of the Fair Labor Standards Act, the Equal Pay Act, and the Family and Medical Leave Act have been made applicable to the House.

The House established an Office of Fair Employment Practices that has a 3-step process to be used by employees alleging discrimination: First, counseling and mediation, second, formal complaint, hearing by a hearing officer, and decision by the office, and third, final review of the decision of the office by an eight-member panel composed of four members of the Committee on House Administration and four officers and employees of the House.

Thus, House employees enjoy rights and protections against discrimination, as well as rights under the Fair Labor Standards Act, the Equal Pay Act, and the Family and Medical Leave Act.

However, the House process of enforcing and redressing these rights and protections is somewhat less independent than that in the Senate, and it affords no judicial review.

Third, the instrumentalities—The various congressional instrumentalities have been made subject to some of these antidiscrimination and employee protection laws, but not to others. Coverage is uneven.

The three largest instrumentalities—the General Accounting Office [GAO], the Government Printing Office [GPO], and the Library of Congress [LOC] are subject to these laws to much the same extent as executive branch agencies, although enforcement mechanisms frequently differ. Thus, the employees of these instrumentalities enjoy most of the rights and protections of the antidiscrimination laws, including the right to bring actions in U.S. District Court.

These employees also have the rights and protections of the Family and Medical Leave Act, the Fair Labor Standards Act, and the Federal Service Labor-Management Relations statute.

These three instrumentalities, as Federal agencies, are also subject to the requirements of section 18 of the Occupational Safety and Health Act, and related provisions of section 7902 of title 5, United States Code, and they each have implemented compliance programs.

However, under statute and established practice, certain of these instrumentalities have internal enforcement or grievance mechanisms where executive branch agencies would be subject to external regulation by other agencies.

The Architect of the Capitol, the Congressional Budget Office, and the Office of Technology Assessment have substantially more limited coverage. Employees of the Architect of the Capitol enjoy rights and protections under the antidiscrimination laws, and were recently authorized to bring claims to the GAO Personnel Appeals Board.

However, these employees have rights under the Fair Labor Standards Act and the Family and Medical Leave Act that are not subject to external enforcement, and they are not covered under any labor-management law. Employees of the CBO have the same rights and protections as House employees, and can bring claims to the House OFEP under House rule 51.

Employees of OTA enjoy the rights and protections of antidiscrimination statutes and the Family and Medical Leave Act, but not the Fair Labor Standards Act. OTA has established its own internal grievance procedure.

Last Congress, significant efforts were undertaken to remove the exemptions Congress has granted itself.

Compliance with Federal laws for the legislative branch was also a major issue for the Joint Committee on the Organization of Congress, which was charged in 1993 with presenting a legislative reorganization plan.

There was a near consensus among the Senators and members of the House of Representatives who testified before the joint committee that congressional exemptions should end.

At hearings before the Governmental Affairs Committee on June 29, 1994, Dr. Norman Ornstein, resident scholar at the American Enterprise Institute, stated:

> There is no subject now that inflames the public more, when it comes to Congress, than this one [congressional coverage].

He therefore urged that Congress get ''caught up with the curve of public opinion,'' or else Congress ''may be forced to take action that is far more destructive of the prerogatives of the institution, and of the taxpayers' purse,'' than the proposals now being considered for enactment.

Members who testified or spoke at the Governmental Affairs Committee's hearing in June and at its meeting to mark up S. 2071 in September, were also nearly unanimous in supporting extension of coverage. Concern was expressed about reported and perceived inadequacies in existing employee rights and protections in the legislative branch.

For example, there was concern about the high rate of workers' compensation claims by employees of the Architect of the Capitol, and about a GAO report documenting apparent inequities in the employment and hiring policies of the Architect.

Also, studies were cited showing that the grievance process provided by the Office of the Architect was underutilized, presumably because of a lack of trust in the process, and that a sizable percentage of House and Senate employees expressed reluctance to use their respective grievance procedures because of a lack of trust.

Additionally, the final report of the Joint Committee on the Organization of Congress stated: ''Witnesses were uniformly dissatisfied with the performance of the House Office of Fair Employment Practices [OFEP], which was established in 1989.'' H. Rep. No 103–413, vol. II, at page 147 (December 1993).

They also expressed concern that an underutilization was caused by lack of employee trust in the process.

SUMMARY OF PROPOSAL

A. WHAT LAWS SHOULD APPLY?

The guiding principle expressed by more than one member of the committee in considering this legislation is that Congress should be subject to the same laws as apply to a business back in a home State. The only exception should be where different rules are necessary to enable Congress to fulfill its constitutional and legislative responsibilities.

This bill would apply 11 key anti-discrimination and employee-protection laws to the Congress. These laws are:

Title VII of the Civil Rights Act of 1964,

The Age Discrimination in Employment Act of 1967,

The Rehabilitation Act of 1973,

The Americans with Disabilities Act of 1990,

The Family and Medical Leave Act of 1993,

The Fair Labor Standards Act of 1938,

The Employee Polygraph Protection Act of 1988,

The Worker Adjustment and Retraining Notification Act,

The Veterans Reemployment Act,

The Occupational Safety and Health Act of 1970, and

The Federal Service Labor-Management Relations Statute.

B. BICAMERAL STRUCTURE

Some Senators believe that to authorize executive branch agencies to enforce antidiscrimination and employment laws against Congress would create a dangerous entanglement between these two branches of Government.

They think the legislative branch must be free from executive branch intimidation, real or perceived, and the enforcing agency must likewise be free of real or imagined intimidation by the legislative branch.

The view has also been expressed that the Constitution requires each House to govern itself, independently of the other House. However, S. 2 creates a Bicameral Office of Compliance. Self-government is an essential constitutional obligation of each House, but establishment of a single office to

implement these laws jointly for the Senate and House would not infringe on any essential Senate or House prerogative.

Indeed, laws cannot be enforced in a fair and uniform manner—and employees and the public cannot be convinced that the laws are being enforced in a fair and uniform manner—unless Congress establishes a single enforcement mechanism that is independent of each House of Congress.

S. 2 would create a new independent enforcement office within the legislative branch. An independent board of directors would be appointed by the majority and minority leadership of each House, removable only for cause. However, the deputy directors of the office, one for each House, will develop the regulations that govern each House, and forward them to the board for notice and comment procedures. The board would then issue regulations, and the accompanying documentation would detail any departures from the recommendations of the deputy directors.

Ultimately, each body would adopt its own regulations, which, so long as they comported with the terms of this act, could take into account differences between the two bodies. Specifically, the board would be responsible for developing rules to apply the antidiscrimination and employment laws to Congress, and Congress would retain the power to approve these rules.

Regulations would become effective by a vote of the respective body, or by both bodies in the event that the regulations in question covered joint employees.

The regulations would have to be consistent with the rules developed by executive branch agencies, unless the board determined for good cause that a different approach would be more effective for the implementation of the rights and protections conferred by the underlying statutes.

The ultimate responsibility for developing, issuing, and approving the rules would remain within the legislative branch. Regulations could gain the force of law if both Houses approved them and presented them to the President for signature.

Although the validity of the regulations could not be challenged upon their promulgation, they could be challenged collaterally by aggrieved employees during enforcement actions. Regulations adopted with the force of law could be challenged only on the basis of their constitutionality, and also only collaterally.

The bicameral and legislative enforcement approach contained in S. 2 is an effort to accommodate the views of those who adamantly oppose executive branch enforcement of these statutes. Some who oppose the interference of the executive branch claim that the Constitution prohibits the executive branch involvement that the private sector lives with under these laws.

Indeed, some of my colleagues maintain that judicial enforcement of these laws to Congress violates the separation of powers.

I am aware of no case law that establishes that subjecting Congress to the same executive and judicial branch enforcement mechanism that the private sector faces violates the Constitution.

And if it were entirely up to me, I suppose that I would have introduced as S. 2 a one-page bill that simply ended the exemptions and required Congress to live under the same laws that it passes for everyone else. I would have provided the same remedies for enforcement that apply outside Congress.

I would have executive branch enforcement of the laws, such as EEOC enforcement of the civil rights laws and Labor Department enforcement of the minimum wage laws.

However, S. 2 recognizes the strong feelings of the Members who disagree with me.

So long as the legislative branch agency enforcing the laws is not a tool of the Members, and so long as the underlying statutes are expressly incorporated through legislation to apply to Congress, the regulations must conform to the regulations, and the regulations can be challenged in court if they subvert the statutes that must apply to Congress, I am willing to accept legislative enforcement.

But that does not mean that I agree that there would be any constitutional impediment to executive branch enforcement. Indeed, I have always been puzzled by the separation of powers argument in the context of congressional coverage.

The Justice Department enforces the criminal laws against Members of Congress, and the courts hear such claims and render judgment. Surely imprisonment is a much greater intrusion against a Member than is a citation for an OSHA violation.

Nonetheless, in recognition of the strong feelings of some of my colleagues, S. 2 provides for administrative enforcement of these laws by an agency within the legislative branch. That requires that S. 2 be a lengthier bill. An administrative mechanism for enforcing 11 laws and permitting judicial review of the decision cannot be written on 1 piece of paper.

C. CLAIMS PROCEDURES AND JUDICIAL REVIEW

The new office would be responsible for handling and adjudicating employee claims where the underlying statute provides for a private right of action. An employee would first receive counseling and mediation services.

If the claim cannot be resolved at this stage, the employee could request that a hearing officer be assigned to conduct a formal administrative hearing on the employee's claim. After the hearing, either party could appeal to the board of directors. If necessary, they could than appeal the decision to the U.S. Court of Appeals for the Federal circuit.

In lieu of a hearing, the employee may bring an action in Federal district court. Allowing access to district courts makes the available remedies more like those available to both private-sector and executive-branch employees. Courts and judges do not have the complex interactions with Congress that executive agencies have, so the risk of intimidation would not arise.

Furthermore, politically motivated claims can be made in other forums, regardless of whether access to district court is allowed.

For claims arising under statutes that do not provide for a private right of action, the employee would proceed to the office to obtain counseling and mediation, as described above.

However, in lieu of the private right of action or executive branch administrative enforcement, the office, if the General Counsel so determined, would pursue the claim itself. The aggrieved party at the end of the administrative process could obtain court review of the decision with the court of appeals for the Federal circuit.

D. LABOR-MANAGEMENT RELATIONS

In the context of the labor-management relations area, I am concerned that congressional coverage does not create any conflicts of interest. For example, there might be concern if legislative staff belonged to a union, that union might be able to exert undue influence over legislative activities or decisions.

Even if such a conflict of interest between employees' official duties and union membership did not actually occur, the mere appearance of undue influence or access might be very troubling. Furthermore, there is concern that labor actions could delay or disrupt vital legislative activities.

The bill would apply the Federal service labor management relations statute, rather than the private-sector National Labor Relations Act. The Federal service law includes provisions and precedents that address problems of conflict of interest in the governmental context and that prohibit strikes and slowdowns.

Furthermore, as an extra measure of precaution, the reported bill would not apply labor-management law to Members' personal or committee offices or other political offices until the board has conducted a special rulemaking to consider such problems as conflict of interest.

Those rules would also not go into effect until considered and enacted by Congress.

E. COST CONSIDERATIONS

Some Members expressed concern that application of laws to the legislative branch would impose large and unpredictable costs on the taxpayer.

The Congressional Budget Office disagrees. The CBO cost estimate predicts costs of about $1 million in the first two fiscal years, and $4 to $5 million in subsequent years. However, unlike S.

2071, S. 2 does not permit covered employees to be offered compensatory time in lieu of overtime pay. That is the rule that applies to the private sector.

There might be some additional cost of complying with this provision. But with respect to employees whose work schedule is highly irregular because of the irregular Senate and House schedule, the board would develop comparable regulations to those governing private sector workers with irregular work hours.

Since the new leadership has committed itself to a more family hospitable work schedule, the amount of overtime is likely to be less in any event.

There will also be costs that CBO did not take into account because S. 2, unlike S. 2071, requires OSHA inspections.

However, the additional costs are likely to be small in relation to the normal sums Congress spends.

F. APPLICATION TO INSTRUMENTALITIES

In an attempt to bring order to the chaos of the way in which the relevant laws apply to congressional instrumentalities, S. 2 divides the instrumentalities into two groups.

The three largest instrumentalities, the General Accounting Office, Library of Congress, and Government Printing Office, already have coverage and enforcement systems that are identical or closely analogous to the executive branch agencies.

Notably, employees in each of these agencies already have the right to seek relief in the Federal courts for violations of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Fair Labor Standards Act, and they are covered under the same provisions of the Family and Medical Leave Act as executive branch employees.

Employees in each of these instrumentalities also already are assured of the right to bargain collectively, with a credible enforcement mechanism to protect that right. For these three instrumentalities, S. 2 clarifies existing coverage in certain respects, and expands coverage under the Americans with Disabilities Act.

It makes few changes with respect to the Government Printing Office because of separation of powers concerns raised by the Department of Justice that GPO is an executive branch agency that should not be under the supervision of a congressional office of compliance.

Additionally, S. 2 directs the administrative conference to study the application of each of these laws to these entities, and to make recommendations for any improvements in such regulations or procedures to ensure they are at least comparable to those required by this act. The board is directed to complete this study within 2 years after passage of this act.

The remaining instrumentalities, including the Architect of the Capitol, the Congressional Budget Office, and the Office of Technology Assessment, are brought within the same new rules, procedures, and remedies as this bill would apply for House of Representatives and Senate employers and employees.

This will allow for a consolidated application and administration of these laws. It will also extend to these employees, for the first time, the right to bargain collectively, and it will provide a means of enforcing compliance with these laws that is independent from the management of these instrumentalities.

For employers of these instrumentalities, by strengthening the enforcement mechanisms, this bill attempts to transform the patchwork of hortatory promises of coverage into a truly enforceable application of these laws.

Dividing the instrumentalities in this manner will reduce the adjudicatory burden on the new office of compliance by excluding from its jurisdiction the approximately 15,000 employees of GAO, GPO, and the Library of Congress.

It also has the advantage of using the apparatus that will already be necessary to apply these laws to the 20,000 employees of the House and Senate to the remaining approximately 3,000 employees of the Architect, Botanic Gardens, CBO, and OTA.

So, Mr. President, the time to act is now, and I urge my colleagues to vote for this bill without any undue delay.

Senator GLENN will probably tell us that years before I came to the Senate, through resolutions he tried to bring and did successfully try to bring attention to this matter on the floor of this body. When I first made that attempt several years ago, it failed, as did my attempt later on in 1989 to end this situation by amending the Americans With Disabilities Act. My amendment at that time was accepted by the then Senate leadership. But in a sense I think they did it because they knew that they would render it ineffective in conference, and it was rendered ineffective in Congress. At a later time I tried to correct this inequity, and I was not even allowed to offer my amendment to the family leave bill when it was first debated in the Senate in 1991.

Congress can no longer refuse to live by the laws that it passes. This bill ends that refusal. The time then is long overdue for Congress to correct that practice of congressional exemption, and this bill does that. It completes the process begun in 1991 when the Senate passed the Grassley-Mitchell amendment applying the substantive provisions of the civil rights law to the Senate. As I said back then, it was a good beginning, but it was only a beginning. So we are back today.

So it is with some measure of satisfaction that I find myself speaking in favor of a bill that would finally require Congress to comply with a host of employment laws that we have exempted ourselves from over four or five decades and that, during that period of time, have been applied to the entire private sector.

Mr. President, since the 1930's, Congress has passed laws that flowed from the assumption that Washington knows best. Congress set up burdensome statutory requirements on the operation of small business in this country. The burdens were increased through regulation issued by executive branch agencies albeit pursuant to the statute. At the same time Congress repeatedly exempted itself from the effects of those laws. Laws govern America but somehow do not apply the same way to employment practices on the Hill. Workers were granted rights but congressional workers were not. Those who made the laws did not have to live by them. Congress was immune from the excesses of the regulatory state. Congress was removed from the way its work affected everyone else. In other words, we, because those laws did not apply to us, did not really know how egregious they were upon the private sector employers of this country.

In this country no one is above the law. But just as the Presidency suffered a tremendous loss of public confidence when an individual thought he was above the law 20 years ago, Congress suffered as Members thought we were above the law by letting these exemptions or lack of applicability apply to us. Indeed, to me this was one of the major reasons why Congress has lost touch with the American people and people are cynical about the process of government, cynical about public servants doing well and intending well and understanding what needs to be done.

Of course, this exemption was one of the ways by which Congress has displayed arrogance. Millions of Americans complained about the overreach of the Federal Government. But Congress, through its exemption from the law, could not know the depth of feeling from the grassroots of America. So in November of every other year, the people have an opportunity to express their view. The American people in November 1994 demanded that Congress be affected by the laws it passed. A number of Members who thought Congress should be above the law are no longer Members, and, of course, no longer above the law.

Let me remind my colleagues of someone who lost an earlier election, former Senator George McGovern, because he has a very good lesson to teach us in regard to the exemption of ourselves from laws that apply to the private sector. Senator McGovern believes that Congress has enacted unnecessary regulatory burdens that are strangling small business. Senator McGovern admits that he did not feel that way when he was a Member of this body, but he learned the reality of the operation of that legislation when he ran a small business after he left public life. I appreciate that Senator McGovern now says that he would have legislated differently had he known what the actual effects would have been as

he found them to be applicable to his small business.

But Members of Congress' learning of the effects of their votes only after leaving office will not solve our problem because after you leave office it is too late for you as an individual to do anything about it. Those of us who are here today can do something to end this unfair situation because only as Members of Congress live with the consequences of their votes will the problem that Senator McGovern identified be corrected. And I believe that S. 2 corrects that situation.

I think that President Clinton as well has this issue exactly right. When we send this bill to him I believe, based on what he has said in the past, he will sign it because he did state in a July 1992 interview:

> It is wrong for Congress to be able to put new requirements on American businesses, employers, and then not follow that rule as employers themselves. They exempt themselves historically from all kinds of rules that private employers have to follow. And I think that one of the things that happens to people in government is they forget what it is like to be governed. They do not have any idea what it is like to be on the receiving end of a lot of rules and regulations.

That is President Clinton as Candidate Clinton. He could not have said it any better than any of us who believe this situation is wrong and why it ought to be ended. And I think that is a clear-cut statement that President Clinton would support our efforts today, and supporting those efforts then would sign the legislation that, hopefully, we will pass.

Of course, the Founding Fathers would have been astonished to know that Congress had exempted itself from so many laws that it passed applying to the private sector. James Madison in Federalist Paper 57 wrote about this issue. He wrote that one of the primary guarantees of people's liberty came from Congress having to live under the laws that we apply to the entire Nation. Madison wrote that:

> Congress can pass no law which will not have its full operation on themselves and their friends as well as on the great mass of society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them the communion of interest of which few governments have furnished examples but without which every government degenerates into tyranny. If this spirit ever were so debased as to tolerate a law not obligatory on the legislature as well as on the people, the people will be prepared to tolerate anything but liberty.

That is Federalist Paper 57.

Mr. President, Madison was right. Of course, the low esteem in which Congress is currently held reflects the fact that there is no longer congruence of interest between the governors and the governed. The American people will no longer tolerate a law not obligatory on the legislature as well as the people. Under Madison's principle, because Members of Congress would be careful before they infringe their own liberties, the people's liberties would then be zealously protected.

Unfortunately, the corollary to that principle was equally true. Members of Congress who could protect their own liberties while infringing on the liberties of the mass of society were much more likely, then, to fail to protect everyone else's liberties. Congress enjoyed privilege through exemption. The time has come to end congressional royalism. The time has come then to simply say that there will no longer be an environment of two sets of laws in America—one for Pennsylvania Avenue and the other for the rest of the country, in Main Street America. No longer will there be two sets of laws, one for this town and this Hill and one for the rest of the country. One set of American people, one set of laws.

So now Congress must finally live under the same laws that pass for everyone else. We do this to fulfill Madison's promise of what was meant in the Constitution. And, thus, employees of Congress will finally gain the same rights that their counterparts in the private sector enjoy.

Like my colleagues, I take the notion of representative government very seriously. We are not Senators for ourselves. We do not hold this job as a matter of personal privilege. We are here to represent the interests of our constituents in our States and in our country. And we are here for no other reason. I think that exemptions from the operation of the law thus interfere with representative government. I wonder how we truly can represent people who live under one set of laws when we live under another set of laws. Under the current system, our votes on various regulatory issues reflect our interests and not those of our constituents. This must change if representative government is to truly function as intended by Madison.

When we pass this bill, we begin to restore the American people's faith in Congress. We will do so in five respects.

First, we will ensure that Members of Congress know firsthand the burdens that the private sector lives with. By knowing those burdens, Congress may decide that the laws indeed are burdensome. That realization may lead to necessary reform of the underlying legislation. It is true that there will be additional costs imposed on Congress if this legislation passes. However, these are costs that we must realize. We have to be cognizant of the fact that the private sector has to live with these costs and has had to do it in some instances for the last six or seven decades. And as far as the cost of this bill to Congress, the Congressional Budget Office estimated that cost of compliance will be about $3.4 billion. Now, while this is a considerable sum, Mr. President, it represents, for instance, only a fraction of the amount Congress recently voted in for a subway system to connect the Senate office buildings with the Capitol.

The second benefit of requiring that Congress live under the laws it passes for others concerns future social legislation. If Congress knows that it will be bound by what it passes, Congress will be very careful in the future to respect the liberties and rights of others.

Third, passage of the bill will mean that congressional employees will have the civil rights and social legislation that has ensured fair treatment to workers of the private sector. So then Congress thus becomes the last plantation for our workers. It is time for the plantation worker to be liberated. Maybe it is more accurate to say that Congress and the judiciary are the last two plantations. Senator GLENN stated that plantation point of view 20 years ago, so I give him credit for that.

Curiously, the only people who do not have to comply with the laws are those who make the laws and those who decide the cases under the laws, meaning the members of the judiciary. The judiciary has often interpreted legislation to be burdensome, and perhaps in some instances to be more burdensome than even the exempt Congress intended. Of course, an exempt judiciary has no reason to interpret the statute in a way to protect freedom. They will have to come up with a plan to provide coverage for their employees as well. I look forward to that proposal and to the legislation to cover the judiciary, which might then really be the last plantation.

The fourth general result of the legislation will be public recognition that Congress has again discovered that it is subject to the will of the people and not the other way around. Congress will no longer be above the law. Members of Congress will no longer be first-class citizens with unjustifiable special privileges.

Fifth, Members of Congress will learn themselves of the litigation explosion that is choking small business in this country. When Congress sees directly the litigation produced by the laws we pass, Congress will be very careful about creating additional liabilities for the private sector and additional work for the Federal courts. When Congress sees how alternative dispute resolutions operate, maybe Members of Congress will appreciate the wisdom then of encouraging additional alternative dispute resolution for all sorts of claims brought in the Federal courts, to reduce the burden of the Federal court, to have a way of settling disputes in a less adversarial environment and a les costly environment.

Every indication from polls, from election returns, and from our mail is that all of these show that nothing makes Americans more mad than knowing that they have to live by laws that their representatives in Congress do not have to follow. Of course, we believe they are well justified in their anger. When we pass this bill, we will show them that we recognize the unfairness of the existing exemptions and the legitimacy of their concerns.

Mr. President, S. 2, as we know, is the pending business, and it is the pending business under somewhat unusual circumstances, because it has not been considered by any committee in this Congress. Nonetheless, I want to say that it bears a very close resemblance to S. 2071 from the last Congress. That bill was the subject of hearings in the Governmental Affairs Committee, and it was approved by the committee before consideration. Unfortunately, it was not possible to consider the bill before Congress adjourned, despite the fact that the other body had overwhelmingly passed a similar piece of legislation.

So, Mr. President, in conclusion of my opening statement, the time is to act now. I hope that my colleagues will vote for this bill without any undue delay or any particular destructive amendments.

Senator GLENN is going to seek the floor in just a moment. As I indicated once before in this debate, when Senator GLENN was a freshman Member of this body he was aware of this inequitable situation. He has worked hard with lots of us and he worked hard before a lot of us came here to bring attention to this inequitable situation, unfair situation. Inequitable in the sense that we as employers do not have the same laws apply to us as private sector employers do, unfair in the sense that congressional employees and Hill employees do not have the same rights as private sector employees have under the employment and discrimination laws and safety laws that affect private—and that assures safety and employment fairness—sector employees.

Senator GLENN studied this issue hard, and I suppose in his early days even had more trouble than I did in trying to get the people to appreciate that this dual standard of law was wrong. But he had some resolutions passed very early. I want to commend him for using that method to try to rectify this situation for employees on the Hill. But most importantly, in the time that I have been in the Senate, I want to say that I have found Senator GLENN very cooperative with my efforts to extend these laws. I appreciate very much his efforts to do that.

I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I thank you.

FLOOR PRIVILEGES

Mr. GLENN. Mr. President, I ask unanimous consent that Jill Schneiderman of Senator DASCHLE's staff be granted floor privileges for the duration of the Senate's consideration of S. 2.

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

Mr. GLENN. Mr. President, I have listened very closely to Senator GRASSLEY's presentation here this afternoon. It certainly has been excellent. It certainly covered the legislation in great detail. That was to be expected because he has worked on this for a long time and has been involved with it basically—not for press purposes—because he believes in it and because he believes in what is right for the rest of the country is right for Capitol Hill. I agree with that.

The late great Senator Sam Ervin, who was also a great constitutional scholar, once said that Congress is ''like a doctor prescribing medicine for a patient that he himself would not take.'' I agree with that statement by Sam Ervin because by enacting laws for others and then exempting ourselves we have done great damage to the public perception of Congress.

I do not find any more of a hot button item wherever I travel in Ohio and other parts of the country than this particular item because I find that people are especially irritated that we do not have to follow the rules like everybody else. There were some reasons why the rules were exempted earlier. I will address that in just a moment. It was not done just to make life easier for us here. There were some genuine concerns about how they would be administered. But businessmen and others—but especially businessmen—tell me that we in Congress cannot understand the real impact of our laws because we do not have to follow them back here on Capitol Hill.

There is an even more important principle at stake it seems to me; and, that is, to continue to deprive our employees of the full protection of the law is flat wrong. We passed laws for the rest of the country that said that employers should treat their employees in a certain way, that OSHA laws should be at administered against businesses, institutions, colleges or public buildings or whatever, that EPA would take certain actions and so on out there. But then we say but we will not let those things apply here on Capitol Hill.

Let me be clear. I am not just talking about our legislative and our administrative personnel that many people think of when you think of Capitol Hill staffers. We think of our administrative personnel. But we must remember there are also the cleaning crews, the police, the restaurant workers, the parking lot attendants, the plumbers, the window washers, and so on, all of the workers who do not enjoy the same rights as every other American not employed by Congress. That is what it comes down to. Is it right that we do this for our own people employed here on Capitol Hill? Is it right that they have the same protections as everyone else? I cannot come to any conclusion but that certainly it is right that we pass this kind of legislation.

So I am very pleased that in these opening days of the 104th Congress we can finally do what is right for these people and eliminate this congressional double standard under which we have enacted laws that apply to everyone but ourselves.

This reform is long overdue. Our efforts to apply the law on Capitol Hill go back many years. My own personal efforts, which Senator GRASSLEY referred to a little while ago, go clear back to 1978. I had not been here too long. In 1978 I had been here I guess at that time about 3 years. I was sworn in early 1975. I proposed a resolution to assure that all Senate employees would be protected against employment discrimination just as other people were all over the country, and explained why we needed this resolution. I said that I viewed Congress as ''the last plantation.'' That got the ire of some of my colleagues. They were not happy with me for making that kind of a statement. But the employees knew what I said was true because we were treating ourselves here, we were treating Capitol Hill, as the last plantation that was a law only unto itself. The resolution did not pass in 1978. It is only in the last few years that we have finally enacted substantial legal protection for Senate employees. Our Senate employees are now covered under the civil rights laws and certain other employment laws. But they can take their cases to the U.S. Court of Appeals.

Despite this progress we still have an unacceptable patchwork quilt of coverage and exemption here on Capitol Hill. It has not been easy to solve this problem. My guiding principle has been that we in Congress should be subject to the same laws as applied to a business back in our home State.

I recognize the unique nature of life on Capitol Hill, the unique nature of the Congress and how it does business here. So every single law cannot apply in exactly the same way as they are administered back home. But most of them can. Many Members also believe that the Constitution requires us to preserve substantial independence of the Senate and of the House of Representatives—in other words, the separation of powers under the Constitution. One branch does not have a superior position over another branch of Government. It is the checks and balances of our Government that we do not wish to throw away. The concern of a lot of people about this separation of powers is not simply a matter of personal prerogative or ego. For the private sector, these laws are normally implemented by the executive branch and the judicial branch. But many Senators, both Democrats and Republicans, have expressed genuine concern about politically motivated prosecutions that might result if we ignore the principle of separation of powers as we apply these laws to Congress.

Last year, the majority leader, Senator Mitchell, asked me as chairman of the Governmental Affairs Committee to try and find a bipartisan solution. I started with the excellent bill introduced last year by Senators LIEBERMAN and GRASSLEY, and then together with them, with Senators

LIEBERMAN, GRASSLEY and other Senators from both sides, we worked hard to reach a solution, and I think we succeeded. We included even a stronger application of the laws to Congress, and we also included stronger protection of the constitutional independence of the House and Senate. Our legislation won broad, bipartisan support, but it was unfortunately blocked on the Senate floor in the closing days of the 103d Congress.

I am very gratified that our solution to congressional coverage now stands, I believe, an excellent chance of being enacted by the new Congress. There have been two different bills introduced. One is the bill we have before us today, and the other was introduced on congressional accountability yesterday by Senator DASCHLE, our new Democratic leader, as part of a comprehensive congressional reform proposal. Senator DASCHLE's proposal includes a number of reforms of the way Congress does business, including not only congressional coverage, but also including measures on lobbying disclosure and gifts to Members.

These essential measures, which I support, were also blocked along with congressional coverage at the end of the last Congress. That bill is not the one that is before us now. The bill before us now is the one just on congressional coverage that Senators GRASSLEY, DOLE, and LIEBERMAN have submitted.

Senator DOLE has made this a top-priority legislative proposal, and I am very happy with that. With this strong bipartisan support that we have for this legislation, I am very optimistic that congressional coverage legislation can be promptly enacted—and I hope very promptly.

Legislation can be briefly summarized in five key elements. First, all of the rights and protections under the civil rights laws and other employment statutes, and the public access requirements of the Americans With Disabilities Act, would apply to the legislative branch. This includes the Senate, the House of Representatives, and our support agencies. Second, a new compliance office would be established within the legislative branch to handle claims and issue rules. This compliance office would be headed by an independent five-person board of directors, removable only for cause and appointed by the leadership.

This board is a new proposal here, in that this takes away most of the concerns of those people who were primarily concerned about the separation of powers and what would happen if we had an overzealous executive branch of Government trying to enforce a Clean Air Act or an OSHA law on Capitol Hill and pushing too hard for it, wanting to exact a pound of flesh in some other area in response. That has been a concern that people have expressed throughout the years. So this board goes a long way toward declaring our independence and our capability in making sure that all of the laws are adhered to here on Capitol Hill and making that administration of those laws the purview of this five-person board of directors.

I think it is unfortunate that we have to create a new enforcement bureaucracy at a time when we are more concerned about streamlining Government. But many Members, as I say, still believe it would violate the constitutional separation of powers to have the executive branch enforce these laws against Congress.

A third point. Any employee who believes there has been a violation could receive counseling and mediation services from the new office. I would anticipate that most of the problems could be resolved at that counseling and mediation level. But if the employee's claim is not resolved by counseling or mediation, then the employee can carry this further. They can file a complaint with the compliance office and receive a hearing and decision from a hearing officer. This decision may be appealed. Then, in turn, if they are not happy with what comes out of the first two steps, it may be appealed to the board for the board's direct action, or after that, even to the U.S. Court of Appeals. That is a lengthy process, but it is one that certainly gives the employees all kinds of access to make sure that their complaint is adequately dealt with.

Fourth, instead of filing a complaint with the compliance office after counseling and mediation, another track that can be followed is that the employee may elect to go directly and sue in the U.S. district court, just as any businessman across this country can do, or any individual across the country can do if they have a problem with their employer, or whatever. Further, a jury trial may be requested under normal applicable law.

Fifth, the board will appoint a general counsel who will enforce OSHA, collective bargaining requirements, and other laws.

So I am very pleased that there now appears to be bipartisan support for the Congressional Accountability Act. I will certainly be as pleased as anyone when it is finally adopted. This is not all brand new, make no mistake about it. The congressional coverage legislation is not completely new in that congressional coverage legislation was adopted by the Democratically-controlled House of Representatives last year. Congressional coverage legislation was sent to the Senate floor from our Governmental Affairs Committee last year. Unfortunately, it died in the final days of the Senate last year in that scorched Earth atmosphere which we all deplore, when we saw Members opposing just for the sake of opposing and sometimes killing legislation they themselves even supported.

But that is behind us now and we are on to a new day here. I certainly want to let everyone know that while we went through some trials and tribulations last year, we are ready to move on.

I think the American people are ready to move on and see this kind of legislation in particular get passed. That is easier said than done sometimes, but I think it is high time that we started to put the national interests first and to calculate our actions based not on narrow political calculations of today, or on who may gain more political advantage by supporting or opposing this particular piece of legislation. We should be doing this on what is best tomorrow for the United States of America, for the whole country.

If Republicans and Democrats alike can just remember that, I think we are going to have a great session through this coming year. I think the Congressional Accountability Act is a good place to start.

I talked about the last plantation a little while ago. The last plantation, I think, we now can eliminate and bring into the 20th century with this particular piece of legislation. So I am very happy to be supporting it.

Mr. President, earlier in the remarks by my distinguished colleague from Iowa, he mentioned the costs and other impacts of the Congressional Accountability Act. I have a one-page summary of where those expenses are anticipated to occur, and I ask unanimous consent that this be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. GLENN. Briefly summarizing, one new compliance office is estimated to cost about $1 million a year for 2 years during startup. It will be $2 to $3 million a year thereafter, including enforcement procedures and OSHA inspections.

Settlements and awards to employees can run from a half million to a million dollars a year.

Federal labor-management relations, possibly a million dollars a year. We do not know on that. There is no good way to estimate that.

OSHA concerns are a little uncertain also, but those mainly have been taken care of around Capitol Hill, so there should not be much expenditure on that.

Applying fair labor standards to the Capitol police force will cost probably around $800,000 a year or so. On other employees it was difficult to estimate on that as to what the fair labor standards application could bring in the way of costs.

Antidiscrimination laws, polygraph protection, plant closing, and veterans rehiring are things for which we do not anticipate there would be any major expense.

The bottom line then is that the total estimated cost CBO has run out—and this was included in our Governmental Affairs report last year in a CBO letter at pages 44 and 49 of the Governmental Affairs Committee report, if anybody wants to refer to it—

described these costs that I just enumerated here briefly, and came to the bottom line that a total estimate would be about $1 million per year for the first 2 years and a $4 to $5 million total thereafter. But it is a very, very uncertain amount. So compared to the problem we are solving, I think that is a fairly modest expenditure.

Mr. President, the Congressional Accountability Act would apply a number of Federal workplace safety and labor laws to the operations of Congress. But one of the main things it also provides is the new administrative process I outlined for handling complaints and violations of these laws. And that is new.

While it is true that some of these laws have applied to Capitol Hill in the past, there has not been an enforcement mechanism. There has not been a way for an aggrieved employee to exercise their rights and have justice prevail.

One of the major provisions is the administrative process for handling complaints that I just described a few moments ago. Let me go through once again some of the major provisions of this act.

First, it will have the application of workplace protection and antidiscrimination laws. S. 2 would apply several Federal laws regarding employment to the operation of legislative branch offices and provide an administrative process for handling complaints and violations.

The following laws would be applied to legislative branch employees: Under the general title of antidiscrimination laws, we have title VII of the Civil Rights Act of 1964; we have the Age Discrimination in Employment Act of 1967; we have title I of the Americans With Disabilities Act of 1990; and we have the Rehabilitation Act of 1973. Those are all under the antidiscrimination laws.

Next, under the general heading of public services and accommodations, under ADA, the Americans With Disabilities Act, under title II, the Americans With Disabilities Act of 1990, which prohibits discrimination in Government services provided to the public. Another provision under title III, Americans With Disabilities Act of 1990, applies to the rest of those provisions.

Under the general heading of workplace protection laws, the Fair Labor Standards Act of 1938, which concerns minimum wage, equal pay, maximum hours, regulations, and protection against retaliation would now apply. These regulations will be promulgated by the board that tracks executive branch regulations. These regulations will take into account those employees whose irregular work schedules depend directly on the Senate. There has been some concern expressed by Senators about how that would work.

Others, under workplace protection laws, are the Occupational Safety and Health Act of 1970, the Family and Medical Leave Act of 1993, the Employee Polygraph Protection Act; the Worker Adjustment and Retraining Act, which requires a 60-day notice of office closing or mass layoffs, which would not normally apply on Capitol Hill, until you think of the fact that we have the Government Printing Office and the Library of Congress and others where such layoffs might possibly occur.

Another portion under the workplace protection laws is the Veterans Reemployment Act. It grants veterans the right to return to their previous employment, with certain qualifications, if reactivated or drafted.

Further, under the general heading of labor-management relations, the Federal Service Labor-Management Relations Statute of 1978 would apply, and the application to personal or committee staff or other political offices would be deferred until rules are issued by the new Office of Compliance.

Under covered employees, the compliance provisions for the preceding laws would apply to staff and employees of the House, the Senate, the Architect of the Capitol, Congressional Budget Office, Office of Technology Assessment and, of course, the newly recreated Office of Compliance.

Employees of congressional instrumentalities such as the General Accounting Office, Library of Congress, and Government Printing Office will be covered under some of these laws but a study will be ordered to discern current application of these laws to the instrumentalities and to recommend ways to improve procedures. Some of these entities or instrumentalities already have their own internal rules and regulations that they have applied that we want to bring into harmony with this new legislation, and that will be done over a little period of time.

Let us go through protections and procedures for remedy. The bill provides the following five-step process similar to current Senate procedure for employees with claims of violations of civil rights or Americans With Disabilities Act. For employment discrimination laws, violation of family and medical leave protection, violation of fair labor standards, and violations of laws regarding polygraph protection, plant closings, and veterans reemployment violations, the procedure would be as follows:

Step 1 would be a counseling service, which can last for 30 days and must be requested within a 6-month statute of limitations.

Step 2, mediation services, which last for 30 days and must be pursued within 15 days.

Step 3, if the claim cannot be resolved, then a formal complaint and trial before an administrative hearing officer may ensue.

Step 4, after the hearing, if the party feels that they still have not received proper treatment, any aggrieved party may appeal to the Office of Compliance's board of directors, to the board itself. And that does not even end it.

Step 5, if necessary, any aggrieved party may then appeal to the U.S. Court of Appeals for normal judicial review.

The bill would also allow employees to bring suit in Federal district court after the mediation step, without going up to all the rest of that ladder, rather than proceeding, if they choose to do that, rather than proceeding to the administrative hearing and all those five steps I just mentioned. And if they went to district court, the remedy could include the right to a jury trial. The option to seek district court redress could occur only after an employee went through the counseling and mediation process. So that is required whatever happens and whichever track the person might choose to go.

With respect to discrimination based on race, color, religion, sex, or national origin, remedies would include reinstatement, back pay, attorneys fees, and other compensatory damages.

For claims under the ADA title II and title III relating to discrimination in Government services, the bill provides the following steps:

Step 1 would be for a member of the public to submit a charge to the general counsel of the Office of Compliance. No. 2, the general counsel may call for mediation. Step 3, the general counsel may file a complaint which would go before a hearing officer for decision. Step 4 would be an appeal to the board. And step 5 would be an appeal to the U.S. Court of Appeals.

For violation of OSHA, the bill provides the following procedures:

Step 1, employees may make a written request to the general counsel to conduct an inspection.

General counsel will also inspect all facilities at least once each Congress, most likely using some detailees from the Labor Department to help since they are experienced in that area. But the authority would rest with the general counsel to do that. Step 2, citations may be issued by the general counsel. Step 3, disputes regarding citations will be referred to a hearing officer. Step 4, appeal of hearing officer decisions go to the board. Step 5, the board may also approve requests for temporary variances. Step 6, appellate court review of decisions of the board, if it gets that far.

Now, in this area, there would be a 2-year phase-in period for the OSHA procedures to allow inspection and corrective action. The survey also would be conducted to identify problems and to prepare for unforeseen budget impact. Penalties would not apply under the OSHA provisions because this would result only in shifting accounts in the Treasury; in other words, the Government finding itself in one area and putting the Treasury over in the other area.

The following process applies to violations of collective bargaining law:

Step 1, petitions will be considered by the board and could be referred by the board to a hearing officer; step 2, charges of violation would be submitted to the general counsel, who will investigate and may file a complaint. The complaint would be referred to a hearing officer for a decision subject to appeal to the board again. Step 3, negotiation impasses would be submitted to mediators. Step 4, court of appeals review of board decisions will be available except where appellate review is not allowed under the Federal Service Labor-Management Relations Statute.

Now, employees who are employed in a bona fide executive, administrative, or professional capacity—in other words, those committee staff or personal staff who are not covered by the minimum wage and maximum hour provisions—and interns, are also exempted. Otherwise, remedies for violations of rights of all other employees under the FLSA will also include unpaid minimum or overtime wages, liquidated damages, and attorneys fees or costs. I note the exemption there, that professional employees would not be covered in that same way. These remedies would apply to the nonprofessional employees only.

Now, let me address briefly the Office of Compliance. S. 2 will establish an independent nonpartisan Office of Compliance to implement and oversee application of antidiscrimination worker protection laws. Under rulemaking, the office will promulgate rules to implement the statutes. Congress may approve and change by joint resolution rules issued by the office. Rules would be issued in three separate sets of regulations. One, the House; two, the Senate; three, joint offices and instrumentalities. Rules for each Chamber would be subject to approval by that body, or to grant the force and effective law by joint resolution. Rules for joint offices and instrumentalities would be subject to approval by concurrent resolution.

Membership. The office will be headed by a five-member board which will be appointed to fixed, staggered terms of office. The board will be appointed jointly by the Senate majority leader, the Senate minority leader, the Speaker of the House, and the House minority leader. Membership may not include lobbyists, Members, or staff except for Compliance Office employees. The Chair will be chosen by the four appointing authorities from within the membership of the board.

Settlement award reserves, payment of rewards for House and Senate employees, will be made from a new single contingent appropriations account. All settlements and judgments must be paid from funds appropriated to the legislative branch and not from a Governmentwide judgment account. There will be no personal liability on the part of Members.

Mr. President, I think that is a rather complete rundown of this. I think it is only fair we apply the laws to our employees here on Capitol Hill that are applied to the rest of the country. I hope we can have this legislation approved very shortly. I hope we can keep amendments to a minimum. I do not know whether there are any amendments proposed to be brought up this afternoon.

I yield the floor.

EXHIBIT 1

SUMMARY OF COSTS AND OTHER IMPACTS OF CONGRESSIONAL ACCOUNTABILITY ACT

The CBO letter, at pages 44–49 of the GAC Report (and the CBO letter for the House bill) describes the following costs:

1. New compliance office: $1 million/year for 2 years, during start-up.

$2–3 million/year thereafter, including enforcement procedures and OSHA inspections.

2. Settlements and awards to employees: $0.5–1 million/year.

3. Federal labor-management relations: $1 million/year for lawyers and personnel officers.

4. OSHA: Existing standards—will require change in practices rather than significant additional space or cost.

Possible future standards—e.g., ergonomic equipment; air quality—without specific standards, cost cannot be predicted.

5. Fair Labor Standards: Capitol police—$0.8 million/year.

Other employees—CBO could not estimate.—CBO assumed the compliance office would have wide discretion in establishing rules and in allowing compensatory time instead of overtime. This is incorrect: bill requires private-sector rules.

6. Anti-discrimination laws—no additional cost, because these requirements already apply under statutes or rules.

7. Polygraph protection—no effect; polygraphs are not used.

8. Plant closing—no effect; no mass layoffs are anticipated.

9. Veterans rehiring—not scored by CBO; added to the legislation this year.

Total Estimate: $1 million/year for the 2 years, $4–5 million/year thereafter.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I thank the Chair, and I rise in support of the bill.

Mr. President, it has been my privilege to have been cochairman of a working group with Senator GRASSLEY to try to pull together various parts of this legislation and help get it to the floor.

I am fully cognizant of the fact that those of us who are newcomers to this legislative process, indeed, stand on the shoulders of giants. There have been so many who have done so much in this area: Senator GRASSLEY, Senator LIEBERMAN, Senator GLENN and others. I am delighted to be a part of that, and to be part of this strong bipartisan effort here in my first opportunity to address this body.

Mr. President, Senators GRASSLEY and GLENN have very aptly gone over the details of this legislation. It is indeed complex. It involves several pieces of complex litigation and applicability to those already existing laws. They have gone over this in detail. I will not.

I would like to make some basic observations, however, starting with the proposition that the people spoke in a very loud voice in this last election. We can disagree as to what the people were saying in many respects, and we do. We have spent a lot of time trying to interpret the voice of the people in these last few weeks. However, I think there is one thing we cannot or should not disagree on. That is, in large part, they were saying that they want a change of the way we have done business in Washington, DC, Mr. President, specifically in the Congress of the United States.

I cannot think of a better example of the way that we have been doing business in times past than this whole business of exempting Congress from the laws that other people have to live under. So today, I think that what this bill does is take a step in the right direction. It takes a step away from that and toward accountability. It stands for the basic proposition that those who make the laws in this country have to live under the laws that they make, as other citizens do.

Those of us who have just come off the campaign trail, perhaps, have an additional insight into this matter. Those here with us today have spoken many times and labored in the vineyard for many years on this bill. Those of us on the other end of the spectrum have just come from being a part of campaigns where the people's voice was most recently heard.

Mr. President, not only are the people in America for this legislation, the people in America demand this legislation. I would suggest that the people in my State of Tennessee, and I would guess the people across this Nation, wonder why it took so long to pass a proposition that seems to be so imbued in basic common sense. So perhaps that day has changed. I hope we are winning it now, as I speak.

Mr. President, in the first place, it is the fair thing to do. That has been so aptly discussed and described by earlier speakers today. Second, Mr. President, I would like to bring up an additional point, and that is, in my observation, the people of this country, in many respects, are unfortunately losing confidence in our country's institutions. People more and more, I believe, Mr. President, are feeling alienated from their Government in this country. I think that that certainly has to do with the Congress of the United States. I believe that people more and more feel that the Congress has lost touch with people who work hard, pay their taxes, obey the laws and regulations, and are seldom heard from except when additional revenues are needed.

So, I believe that this legislation is the first of many reforms that we will be discussing here in the next several days that will help restore the confidence that the people must have in the people's branch of Government, the Congress of the United States. We cannot stop this cynicism and this feeling of alienation, Mr. President, by ourselves. But the Congress of the United States can stop contributing to it.

Mr. President, I believe in the years to come that this body will be a messenger of bad news to the American people if we do our job, if we are responsible. When we look at the economic picture down the road, when we look at the budgetary problems we will be facing in this country, we will not always have good news to bring to the American people.

I believe the American people are up to it. However, I believe when we deliver that message, the American people must be able to trust the messenger, and I think, again, that is what we are about here today, the first step in that process.

In addition to those reasons, I think that another pretty commonsense proposition applies, and that is that, if the Congress of the United States had to live under the laws they passed for everybody else, maybe we would not have so many laws and, thereby, maybe we would not have so many regulations.

I think it has become entirely too easy in this country, in this Congress, to spend other people's money and regulate other people's lives. That is what I believe Congress has spent too much time on for too many years.

I think for the first time under this legislation, Members of Congress, who understandably are concerned with cost, understandably are concerned with inconvenience and all of these other things, for the first time will start to realize the problems that people out in the country who have to live under these laws have experienced. And maybe, just maybe, we might want to, in the future, reconsider some of the laws that have already been passed and some of the regulations that have been promulgated pursuant to those laws.

I think, in looking at this legislation, legislation of much detail, much work, that there are a couple basic criteria that I look for:

No. 1, that it be comprehensive, and when I study this legislation, I see that every comparable law here is, indeed, applied to Congress.

Second, there must be access to the court system. I examined this legislation and, indeed, we do have access to the court system. Those bringing actions against the officers and Members of Congress of the United States, indeed, have court access. It is not just the laws under this legislation that will apply to Congress but the regulations will also.

Also, Congress under this legislation does not exempt itself from the numerical limitations that are afforded to small businesses which would exempt Congress from coverage under many of these laws. So I think we are moving in the right direction.

Is the legislation perfect? I would say not. Could it go further? Indeed, I would like to see it go a bit further, but I think that we can revisit this at times in the future. I think the question of ultimate liability is something that perhaps needs to be revisited. Surely we can come up with a solution whereby Congressmen and Congresswomen and Members of the Senate are not faced with imminent bankruptcy constantly, on the one hand, and, on the other hand, the taxpayers are not left with a bill that we might run up on them.

I would think that, with the use of insurance and other measures, we could do better perhaps than that. But I think this is a strong—very strong—first step in the right direction. I wholeheartedly support it, not only because it is the right thing to do, but it will be to the benefit of the American people and, I believe, to the ultimate benefit primarily of the Congress of the United States. Thank you.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I am privileged to rise in support of this measure and am delighted not only to join the real pioneers in this effort—Senator GLENN and Senator GRASSLEY—but to speak after our new colleague, the Senator from Tennessee, who has spoken eloquently. I am privileged to work with him on a bipartisan basis on behalf of this bill.

He made reference to the elections that just occurred and the message that was sent to us. I was thinking after this election, there is an old story about a politician who lost an election by a lot, he got clobbered. In the traditional election night speech, he got up and said, ''The people have spoken, but did they have to speak so loudly?''

I think the answer in this case is, obviously, the people did feel they had to speak loudly, and what they were speaking for was change, change in the status quo and, I think, demanding a Government that responds to their problems, that deals efficiently with those responses and that, most of all, gets its own house in order.

I do not know what my colleagues may have found as they were out there this year. I was out there myself, grateful for the support of the people of Connecticut to send me back here. But I found an increasing number of people—and I would say it is a majority out there—who really do not care whether you are Republican or Democrat. What they care about is what you are doing and what have you done. They are not going to judge by labels, as so often happens. They are going to judge by the record of accomplishment or lack of accomplishment.

All of that brings me to this measure, which I think is at the heart of responding to the demand for a change in the status quo, for a demand to a leaner, more responsive Congress, to a demand for legislation that reflects the real world, that reflects the thinking of Members of Congress who understand what is happening out there and who play by the same rules that everybody else plays by, who are forced to live by the same rules that everybody else lives by, and that will act on a bipartisan basis in the interest of America. I think all of that comes together in this piece of legislation.

The measure we are considering today, S. 2, is an improved version of the successive congressional compliance measures which Senator GRASSLEY and I authored last year, beginning with S. 2071. This latest bill, if enacted, will, as those who have spoken before me said, apply to Congress and its support offices all of the laws regarding civil rights, fair labor practices, disability, family medical leave, veterans, reemployment, health and safety that Congress has applied over the years to the executive branch of the Government and to the private sector as well.

Every public opinion poll that I have seen—to tell you the truth you do not need a public opinion poll, it is kind of common sense—indicates that the people of America are ardent, enthusiastic, just about unanimous in their support of this legislation.

I am greatly encouraged that the leaders of this new Congress have placed this bill at the forefront of our business for the opening days of this session. This is a measure that passed the House overwhelmingly on a bipartisan basis last year and was stopped from coming up here at the closing day of the 103d Congress on a procedural objection, an unusually and rarely used procedural objection.

But the mood is different this year. I think passing this bill will show that we have collectively realized that Congress simply cannot continue to do its business as usual and we can no longer live above the law. It is not just that the public will not stand for it, they should not stand for it, and we should not stand for this kind of double standard. It undercuts the basic trust that is a precondition of our democracy, the trust that has to exist between those who are privileged to serve and govern and those who are governed, those who send us here to represent them.

Mr. President, we must pass this bill with strong enforcement, including the right for claims to be heard in court, not just because it has symbolic value but because it is right. By passing this bill, we demonstrate a commitment to the principles that are in all the laws that we have applied to the private sector.

At the end of June 1994, the Senate Governmental Affairs Committee, which I am privileged to serve on, held a hearing on this subject and took a close look at all the issues involved. The committee realized that there is a complex problem that requires well-considered solutions, particularly to the general problem of uneven coverage.

So we went ahead, Senator GRASSLEY and I, Senator GLENN and other members of the Governmental Affairs Committee, and worked on some ways to solve these problems. Since then, this group, and others, has done everything

possible to address the tough legal and constitutional issues in a way that is fair to our employees. It forces us to live in the real world according to the real law but also has some respect for the special constitutional status of the legislative branch.

The bill that we are considering today builds upon that committee substitute to H.R. 4822, which was reported out by the Governmental Affairs Committee last September. I think this bill remains true to virtually all the defining principles and provisions found in H.R. 4822. Like that bill, this measure we are considering establishes an independent office to function as a legislative branch equivalent of the executive enforcement agencies.

Substituting this independent agency for the executive agencies, I think, responds to a genuine argument, which is separation of powers and, in another sense, ends Congress' ability to sit or hide behind the separation of powers argument as an excuse for inaction.

We have dealt with that argument. We have solved that problem. There is no longer that constitutional excuse or argument for inaction.

Some of the strongest arguments that were made against this measure can also I think be put to bed now. At times opponents claimed it would cost billions to implement and even require the construction of new office buildings by Congress. But the testimony that the committee received in June as well as CBO's analysis of the committee-reported bill showed that such fears are not well founded. There is no new OSHA space requirement for offices, projecting the impact of the provisions of this bill. Indeed, the Architect of the Capitol and the Congressional Budget Office have anticipated little, if any, additional expense for OSHA compliance.

Mr. President, passage of this legislation will really go a long way, or at least, let me put it this way, at the outset of the 104th Congress take the large first step in the direction of restoring the public's trust in this institution.

The history of this and companion legislation is interesting. As I looked back at the record, 1938 was the first time that Congress exempted itself from coverage under a relevant Federal employment law when it passed the Fair Labor Standards Act. Congressional staff were not covered by the wage and hour provisions contained in that act. And that precedent, unfortunately, became a tradition of congressional self-exemption from Federal employment laws over the course of the succeeding 56 years since 1938. Right now, Congress is wholly or partially exempt from the relevant provisions of the 11 major Federal employment laws with which this bill deals.

Senator GLENN, as I have indicated earlier, in 1978 really was the pioneer here in authoring a bill that sought to correct this problem. In 1991, Senator GRASSLEY and then Senate Majority Leader Mitchell coauthored the Government Employees Rights Act, also known as GERA, which gave employees of the Senate partial coverage under the Civil Rights Act of 1964, the Age Discrimination and Employment Act of 1967, and the Americans with Disabilities Act of 1990. GERA created this Office of Senate Fair Employment Practices, and an administrative complaint process administered by the office designed to fill the role of the Federal district courts as set forth in the statutes in question. It also provided Senate employees with a review of their decisions in the Court of Appeals for the Federal Circuit.

Mr. President, Members of Congress are still faced with the fact that there is more to do, and that is what the legislation before us intends to do. Private sector employers are particularly and understandably angry and aggrieved by the knowledge that Congress does not subject itself to the most demanding legal and regulatory burdens that Congress imposes on them, particularly the small business community.

Congressional exemption from Federal employment laws I think has also had an adverse effect on the legislative branch work force and its right to equal protection under the law. This is not just a matter of symbolism. It is not even just a matter of equity, though it is a matter of equity. This is kind of a reverse of the golden rule here in this case. This bill is saying let us do unto ourselves as we have done unto others. But beyond those principles, there is a real problem out there and that is the rights of those who work for us, for the Congress.

The Architect of the Capitol, for instance, which has no independent enforcement of its OSHA program, is plagued by one of the highest worker compensation claim rates of all the Federal agencies. Employees of the Senate exempted from the Fair Labor Standards Act have no guaranteed means of securing financial or other compensation for overtime. No employee of the House of Representatives or the Senate may bring a civil action in Federal district court to remedy violations of the Civil Rights Act of 1964 and other Federal antidiscrimination statutes, all of which provide employees in the private sector with exactly that right to pursue their grievances in Federal court.

So there is a real problem out there. This is not symbolism. It is not just principle, though both of those are important. There is a real problem of our workers. The vast majority of legal inequities that may be endured by employees of the House and Senate can be remedied at minimal cost to the Congress by adoption of this measure.

Mr. President, I would briefly like to focus on some of the constitutional concerns that have been raised. Most frequently, again, we have heard about the separation of powers argument, but using this broad-based argument I think distorts the historical intent of the separation of powers doctrine. The basic idea is to limit each branch to a certain set of powers subject to checks by the other two branches so that no one branch can accumulate a level of power that becomes tyrannical in its effect on the public or the private citizen.

In Buckley versus Valeo, a 1975 case, the Supreme Court, citing the history of the separation of powers principle, wrote:

> James Madison, writing in the Federalist Paper No. 47, defended the work of the Framers against the charge that these three governmental powers were not entirely separate from one another in the proposed Constitution. He asserted that while there was some admixture, the Constitution was nonetheless true to Montesquieu's well-known maxim that the legislative, executive and judicial departments ought to be separate and distinct.

And they went on to say that it was a demonstration of Montesquieu's meaning when he wrote:

> When the legislative and executive powers are united in the same person or body, there can be no liberty, because apprehensions may arise lest the same monarch or senate should enact tyrannical laws to execute them in a tyrannical manner.

In other words, the separation of powers principle was to preclude any one branch of the Federal Government from seizing a degree of power that could be used against another branch of the Government or the citizenry in a tyrannical fashion without check from the other branch.

But this was affected by another view of Madison which goes right to the point of this legislation, writing in Federalist 47 that the separation of powers principle was not designed to insulate one branch of the Government or its servants from the rule of law. In other words, each branch was to be strong and independent, to resist a centralization of power. But that did not mean that anyone branch of the Government or its servants should be above the law or exempted from the law. And in Federalist 57, Madison wrote the Congress can make no law which will not have its full operation on themselves and their friends as well as on the great mass of the society. ''This has always been deemed''—and I am continuing with Madison's words—''one of the strongest bonds by which human policy can connect the rulers and the people together. It creates between them the communion of interest and sympathy of sentiments, of which few governments have furnished examples but without which every government denigrates into tyranny. If it be asked what is to restrain the Congress from making legal discriminations in favor of themselves and a particular class of society, I answer,'' Madison said, ''the genius of the whole system. The nature much just and constitutional laws. And above all the vigilant and manly spirit which actuates the

people of America, a spirit which nourishes freedom and in return is nourished by it. If this spirit is ever so far debased as to tolerate a law not obligatory on the legislature as well as on the people,'' Madison wrote, ''the people will be prepared to tolerate anything but liberty.''

Powerful words from one of the great founders and framers of our country. I think they speak to us today because history has taken us in a direction that he feared but did not believe would occur. And it is that drift that brings us to introduce this legislation so that Members of Congress and the institution will not be above and separate from the law.

Mr. President, a final point, if I may, on the question of cost. Because this new bill was just introduced yesterday, there clearly has not been time to receive a cost estimate from the Congressional Budget Office. Yet I would suggest to my colleagues that it is fair and reasonable to draw some pretty firm conclusions from the CBO estimate of the bill reported by the Governmental Affairs Committee last September because this measure is so similar to that measure. We also received a cost estimate from CBO on last year's House-passed bill and the estimates CBO arrived at in both cases were far, far lower—not only than the opponents of the measure feared—but, frankly, than most of the supporters of legislation expected or thought possible.

CBO estimated that both versions, the House-passed version last year and the one reported out of Governmental Affairs, would cost about $1 million for the first 2 years of effect, as the new independent office gears up, and $4 to $5 million in the third, fourth and fifth years. Much of the cost expected in fiscal years 1997 and 1998 is the cost of working out collective bargaining agreements. So once the cost of that is taken care of, the overall price tag should actually dip back down by the beginning of the second 5-year budget cycle of effect.

When you look at the total cost figures projected, I think we also have to realize that the Senate and House offices of fair employment practices will already cost us almost $1.2 million in this fiscal year. So the marginal cost of the bill we are considering would be even less than the CBO estimate.

Mr. President, in the bill's most expensive year as projected by CBO, fiscal year 1998—which would have been, under last year's estimate the 4th year of effect, projected legislative branch spending would be in the neighborhood of $2.5 billion. Therefore, as a percentage of our total operating budget for that year, the bill reported by the Governmental Affairs Committee—according to the CBO estimate—would only have amounted to 1/5 of 1 percent of the total operating budget of the Congress. I think that figure is worth repeating. The cost of the bill would be 1/5 of 1 percent in the year when the bill would have been most expensive. Allocating that tiny fraction of our annual budget would enable Congress to comply with the same laws that we force everyone else to live with, to repair the ruptured relationship between this institution and the people who control it, for whom we work, and to do what is right.

Mr. President, I ask unanimous consent that the full text—noting the presence of my friend and colleague from Alaska here—the full text of my speech be printed in the RECORD as read.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I intend to support this bill because I support a continuation of our efforts to bring Congress under the same laws that apply to the private sector. But I have some serious reservations about this proposal. Contrary to what my friend from Connecticut has just said, I think that the estimates for the cost of this proposal are absurd.

Next week we are going to consider a bill to ban unfunded mandates on States and local governments. Today, we are considering a bill to create an unfunded mandate for Congress to be paid for by the taxpayer.

The Rules Committee is already in the process of cutting 15 percent from the budgets of every committee in the Senate. We have been asked to cut $200 million from the congressional budget over the next 2 years. But I have not heard anyone suggest where we are going to get the money we need to pay for this bill, in light of these cuts that we already face. And, contrary to what you have just heard and what many people believe, I believe complying with the laws contained in this bill is going to cost the taxpayers a lot of money. If it will not, why are all of the business people of this country complaining about the application of these laws to them now?

We have just heard that it is going to cost us $1 million a year. I am making the Senate a commitment as the new Senate Rules Committee chairman, we will keep track of the costs of this bill year by year, and report them to the Senate.

In 1991, with my support, we brought the Senate under the following laws that are contained in this bill: The Civil Rights Act, the Americans With Disabilities Act, the Age Discrimination Act, and the Rehabilitation Act. Congress included itself in the Family and Medical Leave Act when it passed that law. We still do not know what those will cost the Congress.

In the last Congress I joined then-chairman of the Rules Committee, my good friend from Kentucky, Chairman FORD at that time, directing the Architect of the Capitol to bring the Senate wing of the Capitol into compliance with the Occupational Safety and Health Act.

The Architect is now at work on that with the Department of Labor to bring us into compliance. We do not know what the cost will be. The 5-year cost of our current compliance efforts under one—one thing alone, employment discrimination laws, will be about $5 million. And I think these are just a fraction of the spending that will be needed to bring about compliance with this bill.

I am not against the concept. I think we should face the same laws we impose on the private sector. But we should not stand here and say that this estimate of $1 million a year is a reliable estimate. We should keep in mind the congressional bureaucracy alone created by this bill will cost at least $15 million over the 5 five years. And it does not include the cost of damage awards and attorneys' fees. But don't forget, the taxpayers must pay these costs.

We are trying to apply the same laws to Congress that apply to the private sector. But again I say to the Senate, if it will cost so little to apply them to the Congress, why is the American public in the private sector complaining so loudly? The estimates we are getting are like a lot of other estimates we get from the Congressional Budget Office, in my opinion. And we are going to keep track of them for the Senate. That is why I am here now. I want to make the commitment to the Senate. We are going to watch the costs under this bill. We are going to report them every year. And I am going to ask the Senate to take action to modify some of these laws for both the private sector and the Congress when I show what it really costs the Congress to comply with these laws.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. 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. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I rise in strong support for the Congressional Accountability Act. I really cannot believe that we are debating this issue as if it is something we might or might not do in light of what happened on November 8. It is this kind of reform which will help restore Congress as the truly representative body it was intended to be.

The fact that Congress has routinely exempted itself from laws and regulations which affect virtually every other person, business, and organization in the land says volumes about the arrogance of power, about the insulation of Washington from the real world, about the gulf which has come to exist between the people and those who are elected to represent them.

The Congressional Accountability Act is closely related to several of the other things that were discussed in the Contract With America, such things as overburdened regulations, such things as term limitations.

You know, many of us in Congress have our own stories that we can tell from back in the real world. I was, among other things, a developer. I can remember one time, in order to get, down on the coast for a six-story development, a dock permit, I had to check with 26 Federal and State agencies in order to get that permit. It could have just as well been done with one.

And I think therein lies one of the better arguments for term limits. The fact if you have people who are out in the real world and know what the tough regulations are and what they do to your competitiveness, then they would not behave the way they do.

I understand that earlier today our colleague from Iowa told the story about George McGovern. And I remember that so well, because I was there when the statement was made that after a lifetime in public service he had this burning desire to fulfill a lifetime dream and build that hotel. I guess it was in Connecticut. And he built it. And then, before he knew it, the health department started beating him up, the IRS started beating him up, and the EPA started beating him up, and he went into, I believe, Chapter 11. I would have to paraphrase him. But the exact quote was given by the Senator from Iowa this morning, the thrust of which is, If I had known how tough it was in the real world, I would have voted differently when I was in the U.S. Senate.

Mr. President, to take another example. We ought to recall the very illustrative experience that one of my colleagues from the other body, Representative JOHN BOEHNER, experienced, where he invited an inspector from OSHA, the Occupational Safety and Health Administration, to come in and look at his three-room office that he had there in the, I believe it was, Cannon Office Building. When they did, they found six safety violations, including a lack of an evacuation plan.

I might suggest to my colleagues that if we do not pass this bill, we might all want to install an evacuation plan in our offices.

They went on to look at some of the other areas of Government right here in the Capitol, I believe, in the Architect's Office. They said that in the event that we had to comply with the OSHA requirements, that it would cost over $1 million to come up to compliance.

And there is a historic precedence for this. James Madison, in his writing in 1788 in the Federalist Papers, said:

> Congress can make no law which would not have its full operation on themselves and their friends as well as on the great mass of society. This has always been deemed one of the strongest bonds by which human policy can connect the rulers and the people together. Without this communion of interests, every government degenerates into tyranny.

Those like Madison who wrote our Constitution intended that Members of Congress would not be part of some elitist aristocracy, out of touch with the people, insulated from the real world. Rather, they intended Members of Congress to be themselves the same farmers and shopkeepers and business men and business women and merchants who expected to deserve the Government that we finally got—''of the people, by the people, and for the people.''

With this reform, this Congressional Accountability Act, we will take one small step following so many others in our history to help ensure that such a Government shall not perish from the Earth.

This reform, like our reform of the discharge petition process—Mr. President, you remember that well from the other body—will serve as a predicate for many other reforms that we surely will be considering and are really adamantly demanded by the people as a result of the revolution of November 8.

I cannot imagine there is one Member of this body who would go back to his State and look a constituent in the eye and say, ''We will take care of you. We know what is best for you. You just do what we say. And yet, that is not going to apply to us. You know, we live in an ivory tower with impenetrable walls, so we are insulated from many things that you folks are not insulated from.''

This eliteness was shot down in the revolution of November 8.

So, Mr. President, I urge my colleagues to vote in favor of this measure.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, first of all, let me thank my colleagues, Senator GRASSLEY, Senator GLENN, Senator LIEBERMAN, and others, for their fine work on this piece of legislation.

I know that my colleagues on the other side of the aisle—and I assume that includes you, Mr. President, are going to be caucusing at 3:15. And I certainly will not take more than 10 minutes, if that.

Mr. President, a little later on, it would be my honor to be on the floor with an amendment with Senator LEVIN, and, I am sure, Senator FEINGOLD, Senator LAUTENBERG, I know the minority leader also feels very strongly about this. I think it will be a very important amendment when we do have the debate on this amendment before the Senate.

This amendment deals with lobbying disclosure, but with a special focus on the gift ban. This is a piece of legislation that probably Senator LEVIN and Senator COHEN, among others, have exerted tremendous leadership on.

My strong interest in this, Mr. President, has been on the gift ban part. I have heard my colleagues for the last several hours speak with a considerable amount of eloquence about the mood in the country. I think probably Senator GLENN from Ohio did this as well as any would when he talked about how strongly he feels about this piece of legislation and the fact that it is above and beyond the politics of it all; that is to say, it certainly does not look very good when we try to live by other workplace rules than the people that we represent.

Well, I think from the point of view of the right thing to do, and that is what Senator GLENN has focused on, this piece of legislation is extremely important. But, Mr. President, if we are going to talk about congressional accountability, I think that we can do much better.

I believe that this amendment, which will later on be on the floor of the Senate at least before this bill is finally voted up or down that deals especially with the gift ban, is extremely important.

Mr. President, when my colleagues talked about what they have heard back home from the people they represent in our different States, I can just tell you that in the cafes in Minnesota, there just is not even any debate about the following proposition. And the following proposition is as follows: It is just simply wrong for Senators to be receiving gifts in the form of paid trips for recreation or meals or tickets to athletic games, or whatever the case, from lobbyists and others.

I mean, Mr. President, to the 99.99 percent of people in the country, it is wrong because this, to them, represents a process where people attempt to buy access, to buy influence. Though I am not talking about the individual wrongdoing of any Senator, because I do not think that that is the issue and I would certainly hope that there is very little of that, or maybe in the best of all worlds none of that, the fact of the matter is that this amendment which, in part, deals with ending these gifts, the giving of these gifts and the taking of these gifts, is an amendment that has everything in the world to do with accountability.

Mr. President, we can do a lot of things to change the political culture here in Washington. We can do a lot of things to make this political process more open and more honest and more accountable. We can do a lot of things to rebuild the trust of people in this political process. But, Mr. President, I just will tell you, and I would say this to my colleagues as well, that cutting committees or cutting some staff may be fine. It may be the appropriate thing to do. Certainly, the focus on living by the same workplace rules is a huge step in the right direction. But if we are serious about making this process more accountable and more open and more

honest and a process that the people can more believe in, then there is not one reason in the world why Senators, on this bill, would not want to make us accountable. It is called the Congressional Accountability Act.

One of the ways we can be accountable to the people we represent is to say to them in no uncertain terms that we are not going to be at the receiving end of these gifts. We are not going to take them, not because necessarily taking these gifts that are sometimes lavished upon us has anything to do with any kind of corruption, but rather because we know it does not look good, we know Senators do not need it, and we know people want to have trust in this process. We will simply say to them by passing this amendment that, indeed, we agree with the people we represent on this question.

Mr. President, one of the interesting things about this amendment, of course, is that toward the very end of the very end, indeed, the very end of the last Congress, the 103d Congress, while there was some disagreement about some features of the lobby disclosure gift ban bill—and I want to focus just on the gift ban part, because that is what I have been working on for several years—as a matter of fact, toward the very end of the session, I believe that the majority leader, along with 36 or 37 of his colleagues, came out on the floor, supporting the gift ban provision. So there is strong bipartisan support. I have somewhere in my documents the names of every Senator who supports that gift ban, Democrats and also Republicans.

So from my point of view, it is the beginning of the session. I do not think it is just my point of view, but I think it will be the point of view of colleagues on both sides of the aisle, and I think it has to be the point of view of colleagues on both sides of the aisle because it is the collective point of view of people within our country that if we are going to get off to the right start—and we will talk about reform, and we will say we want to make this process more open and accountable, and we will talk about congressional accountability—then there is not one reason for any further delay in getting serious about accountabilities. I do look forward, later on, with Senator LEVIN and the minority leader, and Senators FEINGOLD and LAUTENBERG, and I am sure other Senators as well on both sides of the aisle, to having this discussion.

I certainly hope that my colleagues will vote for this very important amendment. Mr. President, I will not argue that this amendment will be the final step that we should take. I think it greatly strengthens this bill. We have been putting off this gift ban for too long a period of time. Over and over and over again, we have put off taking action on it. I think that that is unconscionable. I think we want people to believe in this institution. I think we want people to believe in the legislation we pass. And I think the way that that will happen is when people believe in the political process. That is what this amendment is all about.

Now, I do hope that some time in the near future, we can also deal with another part of this which has to do with campaign finance reform. I think, ultimately, if we want to talk about accountability, the whole mix of money and politics is another part of the equation, and I do look forward to that discussion and that debate and those amendments when that happens on the floor of the Senate, as well.

But, again, Mr. President, I do not want to take up any more time. I understand that my colleagues are going to be maybe breaking for conference, at least on the other side, and if other Senators want to speak right now, I will be glad to simply be done.

So, Mr. President, I conclude my remarks for now. I see other Senators on the floor. I hope I did not take too much time. I wanted to alert Senators that this amendment will be coming up.

The PRESIDING OFFICER (Mr. HELMS). The Senator from New Hampshire.

Mr. SMITH. Mr. President, I thank the Senator from Minnesota. I realize there is a conference pending at approximately 3:15. I would like to have my views heard on this very important piece of legislation which I strongly support.

I want to congratulate Senator GRASSLEY on the fine job he has done in his leadership on this issue. I am in very strong support of S. 2, the Congressional Accountability Act of 1995. Mr. President, I am pleased that the Senate is now addressing itself to this issue, finally. It is a very important matter, assuring that Congress obeys the same laws by which it requires the rest of the Nation to abide. That is certainly not an unreasonable approach to take, I think.

It is an issue in which I have long been interested, and I am pleased to have served with Senator GRASSLEY on the Senate Republican working group that developed the proposal that is now embodied as S. 2.

Mr. President, we are all aware that public opinion polls, whether we like it or not, consistently report that the American people hold Congress as an institution in very low regard. The people's lack of esteem for Congress is based in large part on the perception that Congress is an arrogant and imperial body that has placed itself above the law. We should not be doing things to enhance that perception. It should be the opposite.

Unfortunately, in modern times at least, this perception has been well grounded in reality. For decades, Congress has routinely—routinely—exempted itself from a wide range of laws governing such matters as civil rights, employment discrimination, sexual harassment, workplace safety, and on and on and on.

In a very real sense, then, Congress indeed has placed itself above the law. That decidedly was not what the Founding Fathers of our great Nation intended. They have been amply quoted here, and there is the possibility of repetition; I would like to quote a couple of more times. In Federalist No. 57, Madison assured the American people that under the Constitution, Congress would not abuse its lawmaking power because ''it can make no law which will not have its full operation on themselves and their friends.''

So Madison was very clear about that. Later, as a Member of the first Congress, Mr. Madison spoke on the floor of the House of Representatives about the important principle that all laws should be made to operate as much on the lawmakers as upon the people.

It is amazing when you go back and read the words of these founders, Mr. President. They were so brilliant, and so many times we walk away from their logic. It is interesting to hear contemporaries interpret their words almost 180 degrees differently from what they intended when the Founders wrote them.

Mr. President, Madison was not alone in articulating this principle that Congress should not be above the law, but rather under it. And in his manual of parliamentary practice, Thomas Jefferson, another pretty well-known founder, noted that ''the framers of our Constitution took care to provide that the laws should bind equally on all, and especially that those who make them shall not exempt themselves from their operation.''

Sadly, however, all too often the Congress has seen fit to ignore the solemn principle that those two great founders, Madison and Jefferson, so clearly enunciated.

In recent years, mounting public pressure for change has prompted a movement toward reform with respect to congressional coverage, and in response to that call for change in the 103d Congress, I, among others, introduced legislation to deal with it. Mine was S. 579, the Equity for Congress Act.

The principal difference between the bill that I introduced, the Equity for Congress Act and the other congressional coverage bills in the last Congress, is that the bill I introduced would have kept the Congress out of the business of policing itself with respect to its compliance with the laws that my bill would have made applicable to the legislative branch.

So under the bill that I introduced, there would have been no office of compliance created within the legislative branch. Rather, the executive and judicial branches would have enforced the laws with respect to Congress in the same manner in which it has done in the private sector.

But I still believe the approach to enforcement taken under the Equity for Congress Act in the last Congress is

the right approach. A number of Members of the Senate and House objected to this approach, however. It is a parliamentary body, and we sometimes have to compromise a bit. They use the separation of powers as the grounds for not wanting to do that. Their concern is focused particularly on what they see as a potential for partisan motivation in the manner in which the executive branch might enforce the law.

In an effort to ensure the broadest possible support for, as well as speedy enactment of, congressional coverage legislation, I agreed to support this compromise, the compromise embodied by the bill before us now, S. 2.

Under this compromise, congressional employees who believe that their employer—congressional employer—is violating one of the laws made applicable to the Congress by S. 2 have a choice, they have a choice that is a compromise here. After counseling, they can either file a formal complaint with the new congressional office of compliance or they can go directly to the courts.

The only highly limited exceptions are with respect to those substantive laws that do not afford an analogous right to go to court to other persons who are not congressional employees.

So, I agreed to support this compromise. It is a good compromise and a reasonable compromise because it is consistent with the spirit of the proposal I introduced. I congratulate Senator GRASSLEY for his leadership and his willingness to discuss this matter and to listen to those of us who wanted to make some changes.

Mr. President, I believe that it is imperative that we should move forthwith to take this important step toward restoring the confidence and the trust of the American people in their Congress. Acting promptly to place the Congress under the same laws by which it expects the rest of society to abide will send a powerful message to the American people that we got the message. We got the message that the reign of an arrogant and imperial Congress is over. By moving expeditiously, we in the Congress can send that clear and unmistakable message to the American people that we are committed to true and honest reform.

Finally, Mr. President, I believe that S. 2 has another equally important purpose. Beyond moving to restore the confidence of the American people in their Congress, I believe the enactment of the Congressional Accountability Act will help us to make better laws. If we have to live under the laws we make, we will make better laws. Some say we ought to make a lot less laws, and I totally agree. Others say we ought to repeal one for every one we pass. That sounds like a good idea as well.

But learning firsthand what effects the laws that are passed have on those to whom the law applies will give Congress a unique and invaluable way in which to learn by experience what is wrong with those laws.

Moreover, living under those laws will give Congress a powerful disincentive. It will think twice before passing laws which it would not want to live under.

So I am hopeful, in conclusion, that one spinoff from this excellent piece of legislation will be that we may look at some of these laws that are so onerous on the American people and on many businesses throughout the country and change some of them, as well, when we realize how bad they really are.

I thank you, Mr. President. I thank the Senator from Iowa for his courtesy, and I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The able Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to add Senator HUTCHISON as a cosponsor.

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

## RECESS

Mr. GRASSLEY. Mr. President, this request is from the floor leader. I ask unanimous consent that the Senate stand in recess from 3:15 p.m. until 4 p.m. today.

There being no objection, at 3:15 p.m., the Senate recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mrs. HUTCHISON).

## APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to provisions of Public Law 102–166, and upon the recommendation of the majority leader, in consultation with the minority leader, appoints Dr. Harriett G. Jenkins as Director of the Office of Senate Fair Employment Practices.

## THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

The Senate continued with the consideration of the bill.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine.

Ms. SNOWE. Thank you, Madam President.

It is with great pride that I appear today to speak on the floor of the U.S. Senate as Maine's new Senator, particularly because of the legislation that is before us today on the Congressional Accountability Act.

I want to take this opportunity to congratulate the Senate majority leader for setting this as a high priority in the 104th session of Congress.

In a year when people are talking about change, and looking for more accountability and accomplishments from Congress, there is no more important message that we could send than this: that we will play by the rules, and we will abide by the laws—and Congress will no longer set itself above the law of the land.

Madam President, this is basic fairness, and I congratulate my colleague from Iowa, as well, for his tireless efforts to bring this legislation forward.

It was a decade ago, Madam President, when I first testified in support of the principles embodied in this legislation before the Senate today. Ten years ago, I spoke before the House's Post Office and Civil Service Committee about the need for Congress to treat its employees in the same way we require private businesses to treat their employees.

And I have made the application of our Nation's laws to this Congress a chief objective since that occasion 10 years ago. The issue then, as now, was fairness. Congress should not live above the law. In both of the last two Congresses, I introduced legislation in the other body to extend coverage for Congressional employees under the Civil Rights Act and the Age Discrimination Act, as well as OSHA.

Last year, I testified before the Joint Committee on the Organization of Congress [JCOC], which was established in 1993 to review and improve the legislative process. And last September, I expressed my support for this Chamber's congressional compliance legislation in a bipartisan letter sent to former majority leader and fellow Mainer George Mitchell, as well as to other Members of this body.

Madam President, I have remained vigilant in working for this legislation because we must show the American people that we are willing to abide by the same laws that we require of them. The elections last November made clear that the American people expect more of Congress—that they want changes in the way this institution does business.

This is one of the most important and necessary pieces of legislation this body will consider in this Congress, and I am proud that it is among the first we will consider this session.

We must support this legislation, not only to heed the wishes of the American people to change Congress, but also to deliver on our promise to do what is right. Congress simply cannot continue to live above the law and call itself a body that is ''representative'' of the America we live in today.

After all, what kind of message does Congress send to Americans when it sets itself above the law? What kind of message does Congress send to America when it believes it is beholden to different standards? And how can Congress claim to pass laws in the best interest of the American people if Congress refuses to abide by those very same laws.

Madam President, Congress should be the very last institution in America to