some of the time, but you can't fool all of the people all of the time.'' Our Republican friends seem to be counting on fooling enough of the people enough of the time until November 5—but they are not going to succeed.

The Dole-Gingrich attack on Medicare went even farther. In cahoots with the private insurance industry, their scheme was designed to force senior citizens to give up Medicare and join HMO's or private insurance plans. The Republicans said that their proposal was meant to offer greater choice, but senior citizens know that slashing Medicare in order to divert billions in profits to private insurers is no choice at all.

Republicans claim that President Clinton and the Democrats are using scare tactics on Medicare. But the American people know better. In fact, the cost of the lavish new tax breaks that Senator Dole is proposing will make even deeper cuts in Medicare more likely.

Under the Dole-Gingrich plan last year, the Republicans proposed a 7-year tax cut of $245 billion, paid for by $270 billion in Medicare cuts. Under the current Dole economic plan, the tax cut is $681 billion over 7 years, almost three times as large as last year's tax cut.

What about the Medicare cut? It is fair to ask where the cuts are going to come from. But still we have silence by Bob Dole on where the cuts are going to come from. I say to anyone who cares about Medicare, you better keep tuned because, as we have seen, Bob Dole supported the tax cut of $245 billion and the Medicare cut of $270 billion. Now he is proposing a $681 billion tax cut, and he is silent. You can bet your bottom dollar that there are going to be significant cuts in Medicare.

You do not have to be a mathematical genius to understand that if you have to pay for a tax cut three times as great, your Medicare cuts would be even greater than in the Republican plan last year. Bob Dole is no friend of Medicare and neither is the Republican Party.

The Dole-Gingrich Republican plan for Medicare makes a mockery of the family values they claim to support. I want to point out, on this issue, what happened before the election of 1994. In 1994, Majority Leader Bob Dole said, ''President Clinton and Vice President GORE are resorting to scare tactics . . . falsely accusing Republicans of secret plans to cut Medicare benefits.'' That is the statement he made in 1994, before the last election. And Haley Barbour said, ''The outrage, as far as I am concerned, is the Democrat's big lie campaign that the Contract With America would require huge Medicare cuts. It would not.'' After the election, they proposed $270 billion in Medicare cuts. Bob Dole said no, there would not be any cuts. Haley Barbour said no, there would be no cuts, and then the Republicans in Congress proposed $270 billion in Medicare cuts.

Now Dole has proposed a $681 billion tax cut. We ask him, all right, spell it out, where are you going to cut spending? We cannot get an answer out of him. And what should the American people expect? They ought to understand those cuts will be coming out of Medicare. If the cuts don't come out of Medicare, they will come out of other domestic programs like education. If he doesn't cut Medicare, the Dole tax cut plan would require massive unspecified cuts in domestic investments. If Bob Dole says no, it is not going to come in Medicare; it is not going to come in defense; it cannot come in interest on the debt; where else can he cut? Domestic investments.

The President is trying to hold harmless the domestic investments, particularly in education and in basic research in health care. He has indicated education, the environment, Medicare were the three priorities.

Here is the difference in this chart, where the President's balanced budget program is. Here is the Republican program for the cuts. If we were to enact the Dole tax cut, and if we were to exclude the Medicare from cuts, exclude defense, exclude the interest on the debt, then all other discretionary domestic spending would be cut from $254 billion down to $158—40 to 45 percent in real cuts. Those are cuts in education, NIH research, the fuel assistance programs for elderly people, and legal service programs.

Next year, the Congress and the President will need to take serious steps to deal with the very real financial problems in Medicare. The choice in this election is clear. A Democratic President and a Democratic Congress will address that challenge in a way that protects senior citizens and improves and strengthens Medicare. A Republican Congress and Republican President will put senior citizens and Medicare at risk. I believe the American people share our Democratic commitment to the Nation's senior citizens, and they will vote accordingly on November 5.

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

The PRESIDING OFFICER (Mr. KEMPTHORNE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. 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. KENNEDY. I ask unanimous consent to proceed for 20 minutes without interruption.

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

EMPLOYMENT NONDISCRIMINATION ACT

Mr. KENNEDY. Mr. President, last Friday the Senate began an important debate on legislation to protect the civil rights of gays and lesbians. Senators on both sides of the aisle have expressed strong support for the Employment Nondiscrimination Act. We will vote tomorrow afternoon on that legislation. I am very hopeful that the Senate will support it.

Last Friday, I reviewed the progress we have made as a country and as a society to free ourselves from discrimination. I spent a brief period of time reviewing what I think has been the enormous progress that this country has made to eliminate discrimination—at least to the extent we could eliminate such discrimination through legislation. After all, by including slavery, we enshrined discrimination in the Constitution of the United States. We fought a civil war in the 1860's on this issue but it was not until, I believe, Dr. King led a great movement in the late 1950's and the early 1960's, that the Nation was truly challenged to eradicate discrimination. Dr. King, using the philosophy of nonviolence, drew together Republicans and Democrats, business and labor, as well as church leaders all over the country, to begin a very important antidiscrimination grassroots effort. We made very substantial progress.

On Friday, I pointed out the achievements of the Civil Rights Act of 1957, the Civil Rights Act of 1964, the Voting Rights Act, and the Fair Housing Act of 1968. Furthermore, in 1965 we changed the immigration laws, eliminating the national origin quota system that determined which immigrants would be able to come to the United States. We eliminated the Asian-Pacific triangle that restricted Asian immigration to 125 Asians a year, which was really a throwback to the period at the turn of the century known as the ''Great Period of the Yellow Peril.'' A period of great sadness and discrimination.

We made progress on race. We made progress on ethnicity, religion, and national origin during that period of time. We also made progress with regard to issues of gender. We did not pass the equal rights amendment. We did not say there were ''founding mothers'' as well as Founding Fathers, but we took a series of steps that moved us in a very important and significant way toward recognizing the full rights of women in our society. That was enormously important.

Some 6 years ago we passed the Americans With Disability Act to assert that having a disability does not mean a person is unable, even though for the better part of our Nation's history they suffered from discrimination.

Just a few nights ago under the bipartisan leadership of Senator DOMENICI and Senator WELLSTONE, we began to take the first steps to include mental health in American health care considerations. We have long recognized the challenges that cancer, heart disease, diabetes, or other illnesses provide for us, but we have been extremely reluctant as a society to understand

that there are also diseases that affect the mind. Mental health is an area that needs attention, recognition, and respect, for those that are dealing with those challenges. We made a very small step but not an unimportant step to move beyond the types of discrimination confronting those with mental health illnesses.

Tomorrow, we have an opportunity to see whether we as a country are prepared to free ourselves from discrimination toward gay men and lesbian women. I will make the point tomorrow, when we have greater attendance, that I daresay there are no Members in the Senate that would say we should repeal the Civil Rights Act of 1964; or those who will say ''no,'' we should not permit women to play sports; or, ''no,'' we want a retreat on the kinds of rights we have been able to obtain for those with disabilities; or let us go back to the time when we found discrimination on mental health.

On each and every one of these debates and discussions we have heard arguments that we do not need to take action at the Federal level, that if we take action it will be an intrusion by the Federal Government, there will be a proliferation of that will clog the courts, and the legislation will lead to all kinds of unintended consequences.

The fact of the matter is, Mr. President, I think one of the most proud parts of our history has been that we have been willing as a country and as a society—and this has been true by Republicans and Democrats—to make important progress in moving us beyond discrimination.

Tomorrow, when we vote, we will have an opportunity to call the roll again, and hopefully we will continue the march toward progress. I believe it will demonstrate that Republicans and Democrats alike are joining shoulder to shoulder to try and move this country beyond discrimination in the workplace. That is what we are talking about today—discrimination in the workplace. We are talking about skilled men and women that are prepared to play by the rules, to work hard, and to be engaged in the workplace, but confront discrimination far too often. The sole reason they are losing their jobs or being fired is because of their sexual orientation. That is the issue that is before us. This bill is limited to workplace discrimination. It is an issue that we are well familiar with.

Our legislation prohibits job discrimination based on sexual orientation. Some Senators have questioned the need. What I have tried to do this afternoon is respond to some of the questions raised during the course of the debate last week. I know we will have additional points to be responded to on tomorrow.

So, hopefully, if our colleagues review this legislation with open minds, as they responded to a questionnaire when it was sent out to them—I remind the Senate that our colleagues responded to a questionnaire about employment discrimination based on sexual orientation—they will support it. I believe this because 66 Senators and 241 Members of the House of Representatives have agreed with the following principle: ''Sexual orientation of an individual is not a consideration in the hiring, promoting, or termination of an employee in my office.''

If we are able to get that kind of response in the U.S. Senate tomorrow, people will have made a very, very important contribution to making America, America. There are 66 Members of the Senate, some 241 Members of the House that are effectively saying that discrimination based upon sexual orientation is wrong. Here is a clear statement that these Senators know that there is a lot of stereotyping and a lot of exaggeration, and there are a lot of misstatements and misinformation regarding antidiscrimination policies. When they were back in their offices and addressing this issue quietly and deliberately, 66 members were prepared to say there should not be discrimination on the basis of sexual orientation in the consideration of hiring, promoting, or terminating employees. We will find out now whether they are prepared to take that belief, that statement, that comment, and put it into reality by supporting our bipartisan legislation tomorrow.

Mr. President, the main categories of discrimination under the Federal law are race, gender, religion, disability, and age. Classifications not included in Federal law include personal appearance, poverty, and level of education.

In determining whether or not sexual orientation should be added to the list of federally protected classes, I ask my colleagues to determine whether sexual orientation is more like those categories already covered by Federal law or those that have not received Federal protection. I think that is a question on the minds of some of our colleagues. It is a fair question and it needs to be addressed.

My colleagues should consider the question of immutability. Doctors do not know exactly what causes one's sexual orientation, but the leading theorists, including conservatives such as Judge Richard Posner and Prof. John Finnis, agree that sexual orientation is a feature of one's personality or makeup and not a conscious choice. Therefore, in this regard, it is more like national origin or religion.

Similarly, sexual orientation, like race, gender, religion, national origin, disability, and age, is rarely, if ever, relevant to one's ability to perform in the workplace. Passage of the Employment Nondiscrimination Act would signal congressional support for this truism.

Rarely do we see vicious assaults in the workplace against someone because of their weight or because of smoking or some other kind of activity. We are, however, well aware of the vicious assaults, epithets, taunts, and threats directed toward gay people. These cases very closely resemble the pervasive and flagrant discrimination directed toward racial and ethnic minorities, women, and people of various religious creeds. All we would have to do is reference the hate crimes legislation to see that such crimes are increasingly directed toward gay Americans.

Discrimination against gay and lesbian people for characteristics they don't control or reflect their deep personal identity, that are irrelevant to their ability to do their job, and that provoke irrational animus among some of their coworkers is the classic case for Federal intervention.

The current patchwork of protection for gays and lesbians—laws in nine States, executive orders in eight States, and ordinances in various cities and counties—is far from sufficient.

I might mention the various States and point out for the membership the States that do provide protection. We also know that the majority of Americans support this legislation. We have this in a general poll, and opponents will have other types of polls. We will be glad to get into the battle of the polls should that be necessary during the debate tomorrow. An overwhelming majority of Americans do not believe that Americans in the workplace ought to be discriminated against on the basis of their sexual orientation; nine States passed laws prohibiting employment discrimination based on sexual orientation; eight States have executive orders for gays and lesbians—those could be altered or changed easily. And 166 cities and counties have passed laws prohibiting employment discrimination based on sexual orientation. Also, 650 employers have nondiscrimination policies that include sexual orientation; the overwhelming majority of the Fortune 500, large and small companies. That is what is happening across the country. I will come back to how many times these laws have actually been challenged. Do these States have various laws that provide a series of challenges in the courts, and are they loading up the courts? They clearly are not.

Congress has ample power under the commerce clause and 14th amendment of the Constitution to enact civil rights laws such as the Employment Nondiscrimination Act. That has been sustained—with regard to employment discrimination—repeatedly by the courts.

America's workers keep America's commerce moving. Discrimination in the workplace prevents the Nation from reaching its full potential. As Paul Allaire, the CEO of Xerox said:

> We strive to create an atmosphere where all employees are encouraged to contribute to their fullest potential. Fear of reprisals on the basis of sexual orientation serves to undermine that goal. Enhancing our work environment to prohibit discrimination on the basis of sexual orientation has not added any financial cost to our organization. Instead, we believe our philosophy and practice of valuing diversity brings financial benefits to

the workplace by encouraging full and open participation by all employees.

In other words, it is good business for companies to free themselves from discrimination and discriminating against one particular group in a work force. And that particular statement and comment was made by many CEO's.

I think most Americans would feel that we are a stronger economy and, most importantly, a stronger country when we free ourselves from discrimination and bigotry.

Nothing in the Employment Nondiscrimination Act condones unprofessional conduct in the workplace. Employers may enforce evenhanded rules. Dress codes for heterosexuals and homosexuals must be enforced fairly and equally across the board—that meets any available criteria as long as the rules are applied uniformly to both heterosexuals and homosexuals.

We have heard during the course of the debate—what will an employer do if a gay person acts inappropriately. The answer is that there is no problem. A code of conduct can be enforced equally across the board, and should be equally respected by the employees. We are not talking about creating special rights. We are talking about freeing the workplace from discrimination on the basis of sexual orientation. That is it.

Employers may clearly take appropriate action, if employees violate dress codes or other codes of conduct. The Employment Nondiscrimination Act outlaws job discrimination in hiring, firing, promotion, or compensation. As long as employers maintain a discrimination-free workplace and enforce policies that are sexual orientation-neutral, they will not violate the act.

That is it; period. No matter how many times we state it, nor how clear it is in the legislation, there will be those that will misrepresent what this legislation does. That is it, as I have stated earlier.

In addition, the Employment Nondiscrimination Act clearly states that ''the fact that an employment practice has a disparate impact on the basis of sexual orientation does not establish a prima facie violation of the Act.'' The bill cannot be more clear. Employers have nothing to be concerned about on the issue of disparate impact lawsuits.

The Employment Nondiscrimination Act, like the Americans With Disabilities Act, provides that the EEOC shall have the same enforcement powers as it has to enforce title VII. Employers do not have to keep any specific type of records. The EEOC simply requires that any records already kept must be preserved for 1 year. The EEOC will take the same approach under the Employment Nondiscrimination Act.

The EEOC's only private sector reporting requirement is a form that employers of more than 100 workers must file annually. The form only requires information about race, gender, and national origin—not age and not disability. Like age and disability, there is no reason for an employer to know the sexual orientation of an employee, and that information is not required under the Employment Nondiscrimination Act. The act will not require employers to submit information on the sexual orientation of their employees, and the EEOC will not require it either.

Let me repeat that. This act will not require employers to submit information on the sexual orientation of their employees, and the EEOC will not require it either.

Adequate remedies for job discrimination are important in order to deal with violations of the civil rights laws. The remedies under the Employment Nondiscrimination Act are entirely appropriate. The act applies to clear cases of discrimination cases involving a smoking gun. Depending on the circumstances, a successful plaintiff should receive appropriate relief—reinstatement, back pay, compensatory damages, and even punitive damages in the most flagrant cases.

Compensatory damages were capped by the Civil Rights Act of 1991. Punitive damages are awarded only in cases in which the jury finds that the employer acted with ''malice or reckless indifference to a federally protected right.''

You have to be able to prove that there was malice or reckless indifference to a federally protected right in order to be able to collect.

Of the 284 EEOC cases settled by juries since July 1993, compensatory relief was awarded in only 59 cases and punitive relief was awarded in only 14 cases. The highest compensatory award was $450,000 and the average is $38,418.74. The highest punitive award was $255,000 and the average is $30,535.74. These awards include race and national origin discrimination cases, and compensatory awards in those cases, unlike cases settled under the Employment Nondiscrimination Act, are not capped.

Some have expressed reservations about the Employment Nondiscrimination Act because of religious objections to homosexuality. But as Bishop Browning, presiding bishop of the Episcopal Church, has said:

> Since 1976, the Episcopal Church has been committed publicly to the notion of guaranteeing equal protection for all citizens, including homosexual persons, under the law.
>
> Employment Non-Discrimination Act explicitly fulfills that mandate, and I urge Members of Congress to move swiftly to pass this amendment, and the President to sign it into law. . .
>
> My warm embrace of this legislation, of course, reflects more than my standing as Presiding Bishop of the Episcopal Church. It represents my deep, personal belief in the intrinsic dignity of all God's children.
>
> That dignity demands that all citizens have a full and equal claim upon the promise of the American ideal, which includes equal civil rights protection against unfair employment discrimination.

Many other religious leaders support the Employment Nondiscrimination Act. They believe that the religious exemption in the bill appropriately protects religious liberty. The American Jewish Committee, the Union of American Hebrew Congregations, the Evangelical Lutheran Church, the Unitarian Universalist Association, United Methodist Church, the United Church of Christ, the Anti-Defamation League, and the National Council of Churches have written:

> A general civil rights bill should not exempt individuals because those individuals have reasons based on their religious beliefs for discriminating.
>
> There is a substantial difference between a business operating in the arena of commerce and a religious corporation which exists to serve an explicitly religious mission. . . There are profound differences in religious perspectives on th[e subject of homosexuality]. Individuals are, of course, free to believe what they will. But this does not necessarily mean that they are free to discriminate on the basis of those beliefs.

Individuals who share these beliefs, including my Senate colleagues, are not bigots. There is a great deal of misinformation regarding homosexuals and given that information, I recognize that some of my colleagues have concerns about this legislation. I do believe that as we learn from one another and realize that many of our peers, friends, and family members are homosexual, the misinformation will be replaced with greater understanding. Until that time, however, we need legislation like the Employment Nondiscrimination Act. This simple, straightforward bill will address the egregious discrimination faced by so many gays and lesbians in the workplace.

African-Americans, Latinos, Asian-Americans, native Americans, women, the elderly, the disabled, Jews, Catholics, and many other Americans know what we are talking about here. I remember a time when it was said that a Catholic could not be President. I remember ''Help Wanted'' signs in stores when I was growing up saying ''No Irish Need Apply.'' Thankfully, we have made a great deal of progress in ending that kind of racial, religious, and ethnic bigotry. The Employment Nondiscrimination Act is the next great step on the American journey to fulfill opportunity and freedom from discrimination for all our citizens, and I urge the Senate to enact it.

Mr. President, there is a statement that was made by a business when they fired Cheryl Summerville, a former cook. ''This employment is being terminated due to violation of company policy. This employee is gay.''

That says it all. That says it all. I remember this was an employee who had worked hard; an outstanding cook who worked at a Cracker Barrel restaurant for many, many years; highly regarded, respected, and hard working; but, nonetheless, was effectively terminated; lost her job because she was gay and for that reason only.

Here we have the statement by Barry Goldwater. It is an interesting and a

powerful statement and it is a very worthwhile statement of which we should remind ourselves. I will just read it:

It's time America realized that there was no gay exemption in the ''right to life, liberty and the pursuit of happiness'' in the Declaration of Independence. Anybody who cares about real moral values understands that this isn't about granting special rights—it's about protecting basic rights.

That is why Barry Goldwater as well as Coretta Scott King are strongly in support of this legislation.

Finally, Mr. President, as I mentioned before, there are many things this bill does not do. There are no quotas or preferential treatment.

I have addressed the issue about quotas, about maintaining information or statistics. We do not require quotas in this very carefully drafted legislation. We say no quotas and preferential treatment:

A covered entity shall not adopt or implement a quota on the basis of sexual orientation. A covered entity shall not give preferential treatment to an individual on the basis of sexual orientation.

That is about as clear as you could make it in the English language. We invited others who were concerned about this to propose other language, and there were many who were concerned about it. We feel that the language included in the legislation addresses that issue about as clearly as you possibly could. It is not only our intention but it is included as language in the bill.

We also say:

No cases based merely on disparate impact claims. The fact that an employment practice has a disparate impact, as the term ''disparate impact'' was used under Section 703(k) of the Civil Rights Act of 1964, on the basis of sexual discrimination, does not establish a prima facie violation of this title.

Briefly, Mr. President—I will not take a lot of time on this—what the law generally says with regard to disparate impact cases is, if you have, for example, a 100-man work force and that work force is carrying 150-pound cement bags, the employer may have a policy that employees be able to lift a certain weight. As a result, that employer may not hire many women, even though there exists a pool of women who might want that job. The employer may be able to support the policy resulting in a disparate impact on the pool of women applying for the job. On the other hand, if you have 100 computer experts and you have 100 men and 100 women who have similar qualifications, you are not expecting that particular employer's policy to result in the hiring of 100 men. You can make a case of disparate impact demonstrating that the employer's policy or practice had a disparate impact on the pool of qualified people. At that point, the burden shifts to the employer, who must present evidence supporting their policy. The plaintiff will probably be able to show that there are other, nondiscriminatory policies or practices that the employer may use. That is effectively the way the law goes.

This time we are saying that no disparate impact case will be made, which sustains the position that people do not have to keep statistics on the sexuality of their employees. Even though that has been represented during the early course of the debate on Friday, that is not the case. We have made that very, very clear in the language of the bill. Accordingly, employers do not have to maintain records on the sexual orientation of their employees.

Mr. President, I ask unanimous consent that a written statement from the Equal Employment Opportunity Commission regarding record keeping requirements under the Employment Nondiscrimination Act be printed in the RECORD at the end of my statement.

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

(See exhibit 1.)

Mr. KENNEDY. There is no coverage for the armed services. There is no coverage for the not-for-profit religious organizations. There were some questions about the for-profit religious organizations. We think they are more involved in the secular activities than nonsecular activities and that they, therefore, would be covered. You may be able to nit-pick this and find a particular individual or a particular location or a job which might be of particular appeal, but nonetheless this is the way that this legislation is crafted for the reasons that we have outlined in the general presentation.

We have pointed out:

Religious organizations are defined as corporations, associations, societies, colleges, schools, universities or educational institutions.

So we have attempted to draft this legislation in a way to be targeted, to be limited, to be focused, in a way that deals with the problem. There is a problem in the American workplace. Discrimination based upon sexual orientation exists. It is taking place today. We referred to the various studies and, if necessary, we will come back into those studies in the more general debate either tonight or tomorrow morning if there is any question about it.

I think any Member of the Senate who reads through the various Department of Justice studies on the hate crimes could not possibly question that animus toward gays and lesbians exists today. Other studies prove that this is taking place in America's work force. It is out there.

Although we know the problem exists, there are no rules, regulations, or laws to protect people. That is the sad fact. There are limited laws in limited States to protect people, but it is not enough that as an American you are free from discrimination in one jurisdiction but are going to be subject to discrimination in another. We should free our country from that type of travesty.

So there is a problem. There are not adequate solutions. Do we have a carefully crafted or targeted program just to deal with this danger? The answer is yes.

Finally, I want to just mention the number of cases filed in State courts in the nine States which have laws, as I mentioned last Friday. We are talking about two or three or four cases. I just mention these. In the nine States, California, since 1992, has had five cases; Connecticut, four cases; Hawaii, since 1991, no cases; Massachusetts, two cases; Minnesota, three cases; New Jersey, zero; Rhode Island, zero; Vermont, one; Wisconsin, one.

So this idea that there is going to be a vast proliferation in the Federal courts just does not stand up. When you look at the EEOC record, as I mentioned earlier, and the whole range of discrimination, on gender, on race, on disability, on religious discrimination, and national origin, we are talking about a very limited number of cases that have taken place. When you look at what is happening in the States, you will find that these laws have not been the problem. When people know what is expected of them and the forms of discrimination, they will respond to it. What is called for is a clear statement about rights and liberties and about bigotry and discrimination. This law does it. I am very hopeful that we will accept this legislation on tomorrow afternoon.

Mr. President, I yield the floor.

EXHIBIT 1

EEOC RECORDKEEPING AND REPORTING REQUIREMENTS

1. ENDA provides that the EEOC shall have the same powers to enforce ENDA as it has to enforce Title VII. This tracks the enforcement structure of the Americans With Disabilities Act.

2. EEOC's recordkeeping requirements under Title VII are set out at 29 C.F.R. §§1602.12–1602.14. In these sections, EEOC provides that it ''has not adopted any requirement, generally applicable to employers, that records be made or kept.'' §1602.12. Rather, EEOC requires that ''[a]ny personnel or employment record made or kept by an employer . . . shall be reserved by the employer for a period of one year from the date of the making of the record or the personnel action involved, whichever occurs later'' or until the disposition of a charge of discrimination or lawsuit regarding such action.

3. It is likely that EEOC would take the same approach if ENDA were to be enacted into law, requiring employers to keep for specified time periods whatever records they already keep. There is no reason to believe that EEOC would change its longstanding approach to recordkeeping and require the creation or maintenance of any specified records.

4. EEOC's only reporting requirement applicable to private sector employers is the EEO–1 form. *See* 29 C.F.R. §1602.7. Employers of 100 or more employees are required to file annually a form setting out certain aggregate information about the race, national origin and gender of their employees. The EEO–1 form does not request information regarding age or whether employees have disabilities. Since there is no reason for an employer to know the sexual orientation of an employees in order to comply with ENDA, it is highly unlikely that the EEOC would require employers to gather or submit information regarding the sexual orientation of their employees.

5. The Uniform Guidelines on Employee Selection also include certain recordkeeping requirements. 29 C.F.R. §1607. These guidelines—which address issues of disparate impact discrimination—apply to discrimination on the bases of race, color, religion, sex, and national origin. Since ENDA specifically does not recognize a cause of action for disparate impact discrimination, the Uniform Guidelines would have no applicability.

The PRESIDING OFFICER (Mr. BROWN). Who seeks recognition?

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

The PRESIDING OFFICER. The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Under the previous order, the time until 5:30 is under control of the distinguished Senator from Georgia [Mr. COVERDELL].

Mr. COVERDELL. Mr. President, it is my understanding that will be under my control or a designee, is that correct?

The PRESIDING OFFICER. That is correct.

TAX RELIEF AND TAX REFORM

Mr. COVERDELL. Mr. President, a little earlier today, the Senator from Massachusetts was talking about the tax relief proposal of our former colleague, Senator Dole, which, just to sketch it out, calls for replacing the current tax system with a simpler, flatter, fairer system; it cuts the personal income tax rates across the board by 15 percent, it cuts the top capital gains tax rate for individuals in half, to 14 percent; creates the much-debated $500 per child tax credit, and much needed, I might add; and expands individual retirement accounts. It goes on to offer a 1-year tax amnesty during the transition to a new tax system, eliminates tax returns for 40 million low- and middle-income taxpayers, it shifts the burden of proof from individuals to the IRS, which I have long thought should be the case.

We currently have two legal systems in the country. In most cases, you are innocent until you are proven guilty, but not if you are dealing with the IRS; then you are guilty unless you can somehow extract yourself from it. And it ends lifestyle audits, that is just speculation about, ''You are driving sort of an interesting car, maybe we ought to look into that.'' I do not know of any agency in the United States Government—which is a real reach, when you think about it—that shares a lower reputation among the American people than the IRS. Anybody who has visited with Americans anywhere in the country knows it immediately.

I think that lowering the economic pressure on America's working families ought to be among our first priorities in this country. I have said many times here on the Senate floor that an average working family in my State is now forfeiting 53 percent of their earned wages to a government tax. It is absolutely unheard of.

I thought this was an interesting quote from Cal Thomas, in a recent article that appeared in the Washington Times. He says:

> When government wants to spend your money it's doing something noble. When you want to keep more of your money, you are greedy.

I think that perfectly defines what so much of the debate and language and rhetoric we hear here in Washington is. It is almost as if the Government owns all the fruits of your labor and once in a while allows you to keep some of it. I have to tell you, that is absolutely backward from what Thomas Jefferson had in mind. He warned us, time and time again, of governments that consume the fruits of labor and take it away from the laborer for their own purposes.

Recently, there was a story that I think appeared in Readers Digest, and also the Wall Street Journal, that asked every strata of American life what they thought was a fair tax burden, male/female; income groups from $30,000 to $75,000 or more; Republicans, Democrats, independents, conservatives, moderates, liberals—what is a fair tax?

It is almost stunning that it did not matter what their philosophy, what their gender, what their income strata was, they all had an almost identical answer. The appropriate tax burden on American citizens and workers should not exceed 25 percent. In other words, America believes the tax burden today, which is the highest level it has ever been, or the highest percentage of the gross domestic product, should be half what it is today; that the Government ought to be able to fulfill its responsibilities with half of what it is extracting from every working family.

Of course, we are hearing a lot of moans and groans from the other side. ''Oh, my heavens, what is the Government going to do if it is unable to extract all these resources from our working families?'' As though the Government's priorities come ahead of every one of those mothers and fathers who are trying to feed their children, educate them, house them, and give them higher education, prepare them spiritually. It is just amazing to me. You would think it was the other way around, that this money all belonged to the Government and every now and then it passes a little favor out to you.

I read over the weekend a story, the headline, ''France to Cut Taxes $5 Billion in Effort To Reduce Deficit.''

> PARIS, September 5. France will follow Republican Presidential nominee Robert J. Dole's prescription for economic health and cut taxes to the help reduce its budget deficit in the face of a shrinking economy.

That is what happens. When the Government consumes too much it chokes the economy, it causes people to lose jobs, it causes new businesses not to be formed. I never thought the French would be ahead of us on this.

It goes on to say they are adopting Senator Dole's prescription for economic health, cutting taxes to help reduce the budget deficit in the face of the shrinking economy.

> The Prime Minister announced tonight—[that is September 5]—the $5 billion tax cut for next year and further reductions in following years will make France virtually the only nation in Western Europe to reduce taxes so far this decade.

That is quite an amazing turn of events, that France would be following the advice of Senator Dole and we have nothing but rejection from the Senator from Massachusetts. That is a very, very interesting comparison.

Then we see here the Senate minority leader Tom DASCHLE, South Dakota, said, ''* * * he detected very little desire in the Democratic caucus to act on a tax cut bill before this election.'' I guess it is understandable, considering that that caucus is who gave us the highest tax increase in American history, and little wonder—nor should we be surprised—they have very little interest in leaving these dollars in the checking accounts of America's families.

As a matter of fact, this average family I was talking about just a few moments ago now has 2,600 fewer dollars in their checking account since the arrival of this administration in Washington. In just 4 years, they are now consuming over $2,000 more out of these beleaguered working families in our country.

Mr. President, I see we have been joined by my distinguished colleague from Minnesota. I would like, if he is agreeable, to extend up to 10 minutes to the Senator from Minnesota on this very, very important subject of tax relief and tax reform—much, much needed in our American economy. More important, around the kitchen table and in the checking accounts of just the poor average family trying to make it.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 10 minutes.

Mr. GRAMS. Mr. President, I wanted to add, as my colleague mentioned about the tax cuts that are being proposed for France, I think we note Germany is also proposing tax cuts because of the huge unemployment rate in that country. Again, the same thing, as more government taxes have begun to choke that economy as well as in Sweden, so other nations around the world are looking for ways to encourage economic growth through a reduction in their governments. Like the Senator from Georgia said, it is hard to believe they would be ahead of the United States making those determinations.

But, Mr. President, America's working families, as we have been talking about, face greater hardships now than at any time in the last decade and the