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Senate

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Today, we will celebrate St. Patrick's Day. It is appropriate to share the Gaelic blessing and then pray one of St. Patrick's prayers.

May the road rise up to meet you,
May the wind be always at your back
May the sun lie warm upon your face,
The rain fall softly on your fields,
And until we meet again
May the Lord hold you
In the hollow of His hand.

Gracious Lord, we remember the words with which St. Patrick began his days. "I arise today, through God's might to uphold me, God's wisdom to guide me, God's eye to look before me, God's ear to hear me, God's hand to guard me, God's way to lie before me and God's shield to protect me." In Your Holy Name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized, Senator LOTT.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, today at 1 p.m., following morning business, the Senate will resume consideration of Senate Joint Resolution 22, the call for an independent counsel resolution.

For the information of all Members, no rollcall votes will occur during today's session of the Senate, and the next rollcall vote will occur at approximately 2:45 on Tuesday. That rollcall vote will be on passage of Senate Joint Resolution 18, the Hollings resolution on a constitutional amendment for campaign expenditures.

Regarding the independent counsel resolution, under the previous order, amendments may be offered to that resolution beginning today at 3 p.m.

It is my hope that the Democratic leader and I will be able to reach an agreement as to when the Senate will complete action on Senate Joint Resolution 22—hopefully by tomorrow evening. All Members will be notified when an agreement is reached.

It is possible that the Senate will consider a resolution also regarding Mexico and their certification in the antidrug effort. But I presume that would come not later than Wednesday. Maybe we could even go to it on Tuesday. But right now it looks like it will be Wednesday before we get to that.

The Senate may also begin consideration this week of the nuclear waste legislation.

I will remind all Senators that this is the last week prior to the Easter recess period. I hope the Members will plan accordingly, as we wish to finish our business on time. It will take some cooperation this week to get through the matters we have pending.

We are also seeing if we can get a time agreement on one of the judicial appointments. We have not been able to do that yet. We will continue to work on it.

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

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

The legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for up to 5 minutes each. Under the previous order, there will be 30 minutes under the control of the Senator from Wyoming [Mr. THOMAS]. The Senator from Wyoming is recognized.

Mr. THOMAS. I thank the Chair.

FREEDOM FROM GOVERNMENT COMPETITION ACT

Mr. THOMAS. Mr. President, I have a couple of things I wanted to visit about this morning. The first one of the priorities that I and a number of people have for the 105th Congress is S. 314, the Freedom From Government Competition Act.

This is an effort, along with many other things, to seek to reduce the size of the central Government, which most people agree we should do. It is one of the reasons we try to have a balanced budget amendment, so that we can control the size of the growth of the Federal Government by our willingness to pay for it.

One of the other areas, of course, that we have been very interested in, and continue to be, is the idea of "devolution"—kind of a new word. It means move some of the functions down to State and local governments so that we do, in keeping with the Founding Fathers, keep the size of central Government relatively limited and do those things that are essential to be done on the national level, and there are many, and yet not do the things that could better be done either at the local level in government or, indeed, in the private sector. The private sector is what I want to talk about a little today.

In general, from the title, we are simply saying that we want to remove the

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



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competition of the Federal Government in those things that could as well or, indeed, better be done in the private sector. So S. 314 is called the Freedom From Government Competition Act. This bill is supported by a broad cross-section of business groups, and I have a list of those.

I ask unanimous consent to have the list printed in the RECORD, along with several letters of endorsement.

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

GROUPS SUPPORTING THE FREEDOM FROM
GOVERNMENT COMPETITION ACT

National Federation of Independent Businesses (NFIB).
U.S. Chamber of Commerce.
Associated General Contractors of America (AGC).
National Association of Women Business Owners.
American Consulting Engineers Council (ACEC).
ACIL (Formerly the American Council of Independent Laboratories).
Business Coalition for Fair Competition (BCFC).
Business Executives for National Security (BENS).
Contract Services Association.
Design Professionals Coalition.
Management Association for Private Photogrammetric Surveyors (MAPPS).
Procurement Roundtable.
Professional Services Council (PSC).
Small Business Legislative Council.

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, February 11, 1997.

Hon. CRAIG THOMAS,
U.S. Senate, Washington, DC.

DEAR SENATOR THOMAS: On behalf of the 600,000 members of the National Federation of Independent Business (NFIB), I commend you for introducing the Freedom From Government Competition Act of 1997.

Today government agencies are competing against small businesses in an increasing number of areas. Virtually all goods and services offered by government agencies are available from the private sector, which provides them more efficiently. Small business owners who face government competition spend thousands of dollars to develop their businesses, while their federally funded competitors are tax exempt.

NFIB opposes the government's commercial activities that compete directly with small firms in the private sector. In fact, in a recent survey, 70 percent of small business owners expressed their opposition to government agencies being allowed to compete against private businesses. Additionally, unfair government competition was one of the top recommendations of the 1995 White House Conference on Small Business.

Your legislation would allow small businesses to compete fairly, and allow small business to do what they do best, create new jobs and grow the economy, while still providing a quality product in an efficient manner.

NFIB strongly supports your legislation and stands ready to assist you to stop the practice of unfair government competition against our nation's small businesses.

Sincerely,

DAN DANNER,
Vice President,
Federal Governmental Relations.

THE ASSOCIATED GENERAL
CONTRACTORS OF AMERICA,
Washington, DC, March 7, 1997.

Hon. CRAIG THOMAS,
Washington, DC.

DEAR SENATOR THOMAS: The Associated General Contractors of America (AGC) thanks you for your leadership on the Freedom from Government Competition Act of 1997, S. 314. AGC strongly supports the concept that the government should not compete with its citizenry. Full and open, fair competition provides low cost, highly qualified contractors for government work.

Contracting out government procurement more effectively and efficiently utilizes taxpayer dollars. This bill will encourage the growth of small business and further the competitiveness of large business. In determining commercial areas in which the government unfairly competes with the private sector, common sense outsourcing decisions will be made using the process outlined in the bill.

Sound public policy, however, dictates that the government must maintain its stewardship role to safeguard fairness of competition. Oversight of the outsourcing program, ensures that the end result is fair competition. Successful examples of this type of oversight can be seen in the contracting actions of the General Services Administration's Federal Building Fund, U.S. Army Corps of Engineers, and the Naval Engineering Facilities Command.

AGC stands ready to assist as you to continue your efforts to establish free market competition. Your invaluable leadership on this issue will be needed as Federal Government allows the entrepreneurial spirit to flourish.

Sincerely,

STEPHEN E. SANDHERR,
Executive Vice President.

NATIONAL ASSOCIATION OF
WOMEN BUSINESS OWNERS,
Washington, DC, February 27, 1997.

Hon. CRAIG THOMAS,
U.S. Senate, Washington, DC.

DEAR SENATOR THOMAS: Today government agencies are competing against small businesses in an increasing number of areas. Virtually all goods and services offered by government agencies are available from the private sector, which provides them more efficiently. Small business owners who face government competition spend thousands of dollars to develop their businesses, while their federally funded competitors are tax exempt.

Your legislation would allow small businesses to compete fairly, and allow small business to do what they do best, create new jobs and grow the economy, while still providing a quality product in an efficient manner.

On behalf of the members of the National Association of Women Business Owners (NAWBO), I commend you for introducing the Freedom From Government Competition Act of 1997.

NAWBO opposes the government's commercial activities that compete directly with small firms in the private sector. In fact, in a recent survey, 70 percent of small business owners expressed their opposition to government agencies being allowed to compete against private businesses. Additionally, unfair government competition was one of the top recommendations of the 1995 White House Conference on Small Business.

NAWBO strongly supports your legislation and stands ready to assist you to stop the practice of unfair government competition against our nation's small businesses.

Sincerely,

TERRY NEESE,
Corporate and Public Affairs Liaison.

Mr. THOMAS. Let me just go over some of these folks who do support it: National Federation of Independent Businesses, U.S. Chamber, Associated General Contractors of America, National Association of Women Business Owners, Consulting Engineers Council, Business Coalition for Fair Competition, Design Professionals Coalition, and many others.

So it is designed to say basically that in those areas of Government activities and Government operations, for those things that are done that are basically commercial, there ought to at least be an opportunity for the private sector to compete. It is designed to open the potential market of \$30 billion nationally for businesses, for the private sector, both large and small. And as a matter of fact, most of the contracts would go to small business.

It is designed to level the playing field—those are words we use a lot, but they have meaning—for thousands of businesses in the whole economy of this country from the very ordinary kinds of things to high-technology things—janitorial services, hospitality and recreation service businesses, engineering services, laboratory and testing services.

As a matter of fact, I really became involved in this in the legislature in the State of Wyoming where we had government competing for laboratory services, where the private sector was available there to do that with the same kind of quality or even better and at less cost. So that is what we decided to do.

It will provide for better value to taxpayers because it capitalizes on talent and expertise available in the competitive private sector. It has been Federal policy for a very long time—as a matter of fact, some 40 years—that contracting out to the private sector would be, indeed, a function of the Federal Government, but the fact is that it has not really worked out that way. So we need a legislative solution. We say we are going to do it, but we do not do it. And I understand that. Part of the reason, of course, is that in an agency you have your own operation and your own staff and would prefer to do it.

The other is often when there has been some effort to try to determine the efficiency of it, we find that testing is really not very fair and so you end up saying, well, Government can do it cheaper, but you have not really analyzed it in a very fair way.

We have a lot of things that the Federal Government should be doing, and they take too much time and money on goods and services, in my view, that could better be delivered by the private sector.

The Congressional Budget Office has estimated in the past that 1.4 million Federal employees do work that is basically commercial in nature. This competition, of course, is tougher on the private sector. It kills small business, stifles economic growth, and lowers the tax base, particularly in States such as mine where 50 percent of the

State belongs to the Federal Government, and it is difficult to keep the private sector and the tax base going. It hurts small business. So it has been a concern of small business.

We have had White House small business conferences in 1980, 1986, and 1994, and in all three of these conferences this has been the major concern.

Let me just briefly explain the bill. I indicated that for some time—like 40 years—we have had a policy to do contracting, to bring the private sector in to do things, but they really have not done that. So we are now saying statutorily there is a system for giving small business that opportunity. It does not say that it has to do that. It says that when there is a commercial activity, the private sector should be given an even chance to see if they can do it more efficiently than the Government. And there are exceptions to that, of course. There are legitimate, inherent activities of Government, and those will be the exceptions—national security, where the Federal Government can provide a better value, and we recognize that that can be. We are not asking that it be given to the private sector if, indeed, the Federal Government agency can do it more efficiently, or in the case, of course, where the private sector cannot provide the goods and services.

So this bill establishes a system and a process where the Office of Management and Budget in the executive branch will identify those Government functions that are “inherently and basically commercial in nature.”

It also establishes an Office of Commercial Activities within OMB to implement the bill. So now you do not have the agency that is going to do the contracting making the decision as to whether they do it or not.

There will be an outside effort made to identify the functions that could best be done that way and to establish provisions for the transition of Federal employees if there should be some reduction there.

The climate, I think, is right for action of this kind. Almost everybody agrees we ought to direct the money, if we can save money by better Government—there are lots of underlying issues, whether it be defense, whether it be health care, whether it be Medicare—to where we can better use those dollars rather than doing the things that someone else could do more efficiently.

The Senate was in support of the concept of this bill; last year, the Senate voted 59 to 39 in favor of a Treasury-Postal appropriations amendment that would have prevented unfair Government competition. It was dropped, unfortunately, from the omnibus appropriations bill.

If we are going to balance the budget, we are going to have to make some fundamental changes. The Federal Government operating commercial needs is one that we can change and eliminate and reduce. Various studies

indicate that we could save up to \$30 billion by utilizing private sector resources. The Heritage Foundation estimates we could save \$9 billion annually. The Defense Science Board concluded the Defense Department alone could save \$30 billion annually.

So, the Freedom From Government Competition Act will help to create jobs in the private sector, help open up markets to private business, save billions of dollars and make Government more efficient. I certainly commend this bill to my associates here in the Senate, to see if we could not make a way to increase and strengthen the private sector as well as save money to be used on these things that are fundamentally Governmental in nature.

FINIS MITCHELL

Mr. THOMAS. Mr. President, it is with great honor that I join Wyoming's Gov. Jim Geringer, and the people of the State of Wyoming, in paying tribute to Finis Mitchell, a man whose legacy commemorates the very pioneer spirit on which our great country was founded.

In remembrance of Mr. Mitchell's innumerable contributions to our State, Governor Geringer has issued a proclamation to designate February 15, 1997, as “Finis Mitchell Day.”

I ask unanimous consent that the State of Wyoming's proclamation be printed in the RECORD following my remarks.

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

[See exhibit 1]

Mr. THOMAS. Finis Mitchell was in the vanguard of mountain climbing at the beginning of this century, and continued his exploration of the Wind River Mountain Range until 1985 when, at the age of 84, he suffered a debilitating knee injury. He documented his climbing experiences through extensive mapping and photography, and eventually amassed a collection of slides numbering in excess of 126,000. This intimate knowledge of the area served as a reference for the U.S. Geological Survey in drawing official maps of the Wind Rivers, and inspired Mr. Mitchell to share his love of the mountains by penning a guidebook and giving educational lectures nationwide.

After marrying Emma Nelson in 1923, together they stocked over 300 of the region's lakes with fish and started the Wind Rivers' first recreational fishing camp. To this day, those lakes are being fished by the public. In recognition of his life-long dedication to environmental conservation, Finis Mitchell received an honorary doctorate from the University of Wyoming, in addition to other State and National awards. He also found the time to serve as a State legislator.

Throughout his life, Mr. Mitchell demonstrated strength in his rugged individualism. Starting from a humble beginning with his wife at their post-Depression fishing camp, this spirit of

determination provided Mr. Mitchell with the foundation for a lifetime of success. Finis Mitchell rose to the challenges of exploring social, educational, and political frontiers just as he made his innumerable treks into the untamed wilderness, one step at a time.

It can be said that Mr. Mitchell's achievements were a byproduct of respect he had for the lands he called his own backyard, and those which he helped transform into a sportsman's paradise. The following passage in Finis Mitchell's own words surely echoes the sentiment of all who have had the privilege of knowing his Winds:

Evening alone in the mountains. No one to talk to. No one speaking out . . . Only the comfort of a murmuring breeze, the goodnight chirp of the snowbird . . . the glistening of the moon on a distant glacier, the faint music of waterfalls scurrying down. Where else can a man be so close to heaven and still have his feet on the ground?

Mr. Mitchell's extensive mapping of the Wind River region and his nationally recognized wildlife conservation efforts will be appreciated by folks from Wyoming, and others drawn to the area from all over the globe, for generations to come. We will continue to share his love of nature through the beauty of the majestic vistas and abundant wildlife that make our State like no place on Earth.

Mr. President, I would like to close with a quote from “The Pioneer” by James Fenimore Cooper, which seems to epitomize the life of Finis Mitchell:

None know how often the hand of God is seen in the wilderness but them that rove it for a man's life . . .

Such a man was Finis Mitchell.

EXHIBIT 1

GOVERNOR'S PROCLAMATION

Finis Mitchell was born on November 14, 1901 in Ethel, Missouri, the son of the late Henry Reece and Faye Troutman Mitchell. He traveled with his parents from Missouri to Wyoming's Wind River Range, arriving on April 26, 1906.

Finis Mitchell started mountain climbing back in October, 1909. He continued solo climbing until 1975 when at the age of 73, he suffered a debilitating fall that left him with a bad knee.

Finis Mitchell began taking pictures as a hobby with his climbing, so that he could show people where he had been and what was in our national forests. By the time he stopped climbing he had accumulated a collection of 35mm slides in excess of 126,000. Finis spent most of his free time exploring the Wind Rivers, capturing their beauty on film, naming lakes, and mapping the terrain.

Finis Mitchell and Emma Nelson were married in Rock Springs at the Congregational Church on June 4, 1925. The two pioneers, in 1930, started Mitchell's Fishing Camp at the Big Sandy Openings, which was to become the first recreation area on the Pacific side of the Wind River Range. Due to the lack of fish, Finis and Emma transported fish in five gallon milk cans, twelve at a time using six pack horses. In the seven years that they operated their fishing camp, they stocked over 300 lakes with over 2.5 million little trout, all free for the public to enjoy.

Finis Mitchell had been the recipient of many awards and honors for his conservation