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## House of Representatives

The House was not in session today. Its next meeting will be held on Monday, September 9, 1996, at 12 noon.

## Senate

FRIDAY, SEPTEMBER 6, 1996

The Senate met at 9:30 a.m., and was called to order by the Honorable SHEILA FRAHM, a Senator from the State of Kansas.

### PRAYER

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

Gracious God, thank You for the serendipities You arrange, those unusual surprises in usual circumstances. You delight to surprise us with interventions and inspiration we do not expect. In a timely way, You guide our thoughts with wisdom and insight we could not have discovered on our own. You help us untie knotty problems and we are amazed, wondering why we had not thought of the solutions You provide. You use people to help us, to bolster our esteem, and to communicate Your love in remarkable ways. You have given us a life full of surprises.

Now as we begin a new day we want to live expectantly, open for what You will do or give. We are so thankful for Your goodness. May it give us a very positive attitude toward what's ahead today. Banish our grimness with Your grace. Dear God, it's great to be alive and have the privilege to serve you. We report in for duty with delight.

And yet, as we do our work in the relative safety and quiet of the Nation's Capitol, we are acutely aware that life today for many Americans living on the Southeastern seaboard of our Nation will be filled with danger and destruction in the wake of Hurricane Fran. We ask for Your protection and for Your intervention to bring this crisis to an end. Thank You that we can turn to You for help in all the storms

of life, whether they are in our hearts or in the winds of a hurricane. In the name of our Lord and Savior. Amen.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, September 6, 1996.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SHEILA FRAHM, a Senator from the State of Kansas, to perform the duties of the Chair.

STROM THURMOND,  
President pro tempore.

Senator FRAHM thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

### SCHEDULE

Mr. GRASSLEY. Madam President, for the information of all Senators, this morning the Senate will be debating Senator KENNEDY's employment discrimination bill. In accordance with the agreements reached last night, there will be no rollcall votes during

today's session. Following the 3 hours of debate this morning, there will then be a period for morning business, with Senator COVERDELL in control of the time between 12:30 and 1:30 and Senator DASCHLE in control of the time between 1:30 and 2:30.

The Senate will then adjourn over until Monday, at which time the Senate will begin debate on the Defense authorization conference report. As a reminder, the vote on the adoption of that report is to occur on Tuesday. Therefore, there will be no rollcall votes during Monday's session of the Senate.

On Tuesday, prior to the policy conferences, the Senate will be debating the Defense of Marriage Act.

All Senators should be aware that at 2:15 on Tuesday, the Senate will begin several rollcall votes, the first vote being on the Defense authorization conference report, to be followed by a vote on the Defense of Marriage Act, and following 30 minutes of debate, a vote on Senator KENNEDY's bill.

At the conclusion of those votes, the Senate will begin consideration of the Treasury-Postal appropriations bill. Senators can expect additional votes throughout Tuesday in an attempt to complete action on that bill.

I yield the floor.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Leader time is reserved.

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



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# EMPLOYMENT NONDISCRIMINATION ACT OF 1996

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now begin consideration of S. 2056, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2056) to prohibit employment discrimination on the basis of sexual orientation.

The Senate proceeded to consider the bill.

The ACTING PRESIDENT pro tempore. Time for debate on the bill will be limited to 3 hours to be divided equally in the usual form.

The Chair recognizes the Senator from Massachusetts.

Mr. KENNEDY. Thank you, Madam President. I yield myself such time as I might use.

Madam President, this legislation is introduced by myself, Senator LIEBERMAN, Senator JEFFORDS, Senator AKAKA, Senator BINGAMAN, Senator BOXER, Senator BRADLEY, Senator CHAFEE, Senator DODD, Senator FEINGOLD, Senator FEINSTEIN, Senator GLENN, Senator HARKIN, Senator INOUE, Senator KERREY, Senator KERRY, Senator KOHL, Senator LAUTENBERG, Senator LEAHY, Senator LEVIN, Senator MIKULSKI, Senator MOSELEY-BRAUN, Senator MOYNIHAN, Senator MURRAY, Senator PELL, Senator REID, Senator ROBB, Senator SARBANES, Senator SIMON, Senator WELLSTONE, and Senator WYDEN.

Madam President, I am pleased to bring before the U.S. Senate this morning the Employment Nondiscrimination Act. This act will eliminate job discrimination against gays and lesbians, and it represents the next major chapter in the American struggle to secure civil rights for all of our citizens.

Our progress on civil rights and against discrimination has been one of the finest chapters in the Nation's modern history. The civil rights revolution that began in the 1950's is an unfinished revolution, and we all know the major milestones along the way in Congress: the Civil Rights Act of 1957; the Civil Rights Act of 1964; the Voting Rights Act of 1965 and subsequent extensions; the Fair Housing Act of 1968; the Americans With Disabilities Act of 1990; and the Civil Rights Act of 1991.

I might also mention the Immigration Act of 1965 which addressed the problem of national origin quotas and barriers to people coming into the United States from the Pacific basin and the Pacific rim countries.

Madam President, we remember as well the battles that have taken place—the painful history that includes slavery, the Jim Crow laws, the Japanese internment camps, the Chinese exclusion laws, the Bracero program, and shameful policies and attitudes directed against women, against racial and religious minorities, and against the disabled. Each bill is an acknowledgment that America can rise above its prejudice to be a better, more tolerant society.

Our country has a respected tradition of enacting antidiscrimination legislation to deal with discrimination against recognized groups of people. Time and again Congress has chosen justice over injustice and fairness over bigotry. The time has come to take the next important step in our ongoing battle against prejudice. After decades of discrimination against gays and lesbians, the Senate can send a strong signal that merit and hard work—not bias and stereotypes—are what counts in job opportunities and the workplace in America in 1996.

Faced with irrefutable and compelling evidence of employment discrimination, the choice is clear. The Employment Nondiscrimination Act must become law.

Half a century ago the Senate itself was the instigator of such discrimination. In 1950, the Senate directed the Senate Investigations Subcommittee to make an investigation into employment by the Government of homosexuals. The subcommittee recommended the dismissal of all homosexuals in Government. In 1953, President Eisenhower issued Executive Order 10450 requiring dismissal of all homosexual Government employees. As a result, during the period of 1947 through mid-1950, 1,700 individuals were denied employment by the Federal Government because of their alleged homosexuality. In those times, Government discrimination was matched by flagrant discrimination by private employers.

Government has changed. The private employers often have not. Many gays and lesbians still choose to hide their sexual orientation and live in daily fear that their employers will discover their homosexuality, terminate their jobs, and ruin their careers.

A 1992 survey of 1,400 gays and lesbians in Philadelphia showed that 76 percent of the men and 81 percent of the women concealed their sexual orientation at work. Openly homosexual people often suffer overt job discrimination.

A review of 20 surveys conducted across the country between 1980 and 1991 indicated that many gays and lesbians endured discrimination at work. Whether an employer has a written policy or simply allows discrimination to occur, it is clear that the underlying motivation is bigotry against men and women because of their sexual orientation.

Take the case of Cheryl Summer-ville, who worked as a cook at a suburban Atlanta restaurant for 4 years and received excellent performance evaluations, awards, and promotions. In 1991, the company adopted a policy refusing to employ anyone "whose sexual preferences fail to demonstrate normal heterosexual values." As a result, she was fired. Her official separation notice read: "This employee is being terminated due to violation of company policy. The employee is gay."

Dan Miller worked for a Pennsylvania management consulting com-

pany. He was fired, based on a clause in his employment contract that specifically made homosexuality a just cause for dismissal. Dan went to court, but to no avail. One of the jurors who heard the evidence stated, "It was outrageous to hear intolerance like that in a court of law, where people come to seek protection from intolerance. But the law was silent."

There are too many more examples of unacceptable job discrimination suffered by gays and lesbians. There are too many other cases of hard-working men and women losing their jobs or unable to get work due to their sexual orientation. In each case, the law offers no protection or recourse. That is why we need Federal legislation.

The Employment Nondiscrimination Act is modeled after title VII of the Civil Rights Act of 1964. It prohibits employers from using sexual orientation as a basis for hiring, firing, promotion, or compensation. It's predicated upon the American ideal of equal opportunity. It gives gays and lesbians a fair chance in the workplace.

It also includes broad exemptions. Despite the fact that over 150 companies—including Levi Strauss, Microsoft, and Walt Disney—choose to provide health and other benefits to the same-sex partners of their employees, our legislation does not require an employer to provide domestic partnership benefits. That is a battle for another day.

Our legislation also does not provide for disparate impact claims—cases brought because an apparently neutral practice of an employer disproportionately and adversely affects members of a protected class.

Quotas and preferential treatment are also prohibited under our proposal. Although employers may choose to reach out to members of the gay and lesbian community, they may not give preferential treatment in hiring, firing, promotion, or compensation based on sexual orientation.

Many opponents of this legislation choose to ignore this plain prohibition. They argue that this bill will somehow lead to quotas. That result is not possible. No quotas means no quotas. Neither an employer nor a court can misinterpret Congress' plain meaning.

Our legislation also contains a broad exemption for religious organizations. In fact, it is broader than the exemption for religious institutions in title VII of current law. Religious organizations are exempted entirely from the prohibition of discrimination based on sexual orientation, except for profit-making activities taxed by the Internal Revenue Service.

Finally, our legislation does not apply to the Armed Services. The current "Don't ask, Don't tell" policy will remain in effect.

The Employment Nondiscrimination Act is simple and straight forward. It is not a Government power grab in the workplace. It is not sweeping legislation advancing the gay agenda. This

act is about the American agenda. It is a carefully drafted proposal to end job discrimination, and nothing else.

Of course, clear language will not stop opponents from misleading the public about the bill's intent. Many statements against it defy common sense and logic. The Employment Nondiscrimination Act will not undermine business decisions as long as employers are not discriminating. Recourse against sexual harassment will still exist.

Opponents also express an unnecessary concern about the definition of "sexual orientation." As defined in our proposal, "sexual orientation" means homosexuality, bisexuality, or heterosexuality, whether such orientation is real or perceived. This definition serves the same function as the definition in the Americans With Disabilities Act—it identifies the group of people covered by the law. As with the ADA, a person in the protected class cannot engage in bizarre behavior, must be qualified for the job, and must abide by workplace rules.

Nothing in this legislation will prevent employers from disciplining homosexuals or heterosexuals whose behavior is illegal or unsafe, or compromises their ability to perform their job. Our proposal simply states that such policies must be applied fairly to all employees.

This legislation has broad bipartisan support. Coretta Scott King supports it. Former Republican Senator Barry Goldwater supports this legislation. As Senator Goldwater has said,

Employment discrimination based on sexual orientation is a real problem in our society. From coast to coast and throughout the heartland, regular hardworking Americans are being denied the right to roll up their sleeves and earn a living. That is just plain wrong.

Many Americans—84 percent—agree that employers should not discriminate based upon sexual orientation. In fact, over 600 small and large private businesses already have antidiscrimination policies that include sexual orientation.

Nine States and one hundred sixty-six cities and counties around the country have laws that prohibit employment discrimination against homosexuals. In the Senate itself, 66 Senators have joined in pledging not to discriminate on the basis of sexual orientation in employment in Senate offices.

These are admirable steps toward eradicating discrimination. They are not enough. American workers deserve more than a patchwork of protections from discrimination. That is why the Employment Nondiscrimination Act is so clearly needed.

I urge the Senate to stand with Coretta Scott King and Barry Goldwater in support of this legislation. It is also supported by Gov. Christine Todd Whitman and Gov. William Weld.

It is supported by numerous religious organizations, including the General

Assembly of the Presbyterian Church, the Union of American Hebrew Congregations, the General Convention of the Episcopal Church, the United Methodist Church, the Central Conference of American Rabbis, the United Church of Christ, and the Lutheran Church in America.

It is supported by business and civic leaders around the country. And it should be supported by the Senate, too. It is time to end job discrimination wherever it exists.

Madam President, I will just mention the statements made by distinguished church leaders. Edmond L. Browning, who is the presiding bishop of the Episcopal Church, wrote recently to me:

On behalf of the Episcopal Church, I am pleased to join with so many distinguished figures in the religious and civil rights communities in enthusiastic support of S. 932, the Employment Nondiscrimination Act of 1996. I offer my thanks to you.

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. In that year, the General Convention of the Episcopal Church, the church's highest policymaking body, expressed its conviction that homosexual persons are entitled to equal protection of the laws with all other citizens and called upon society to ensure that such protection is provided in actuality.

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.

The Reverend Riley, who is representing the Unitarian Universalist Association of Congregations, says:

We are happy that the Employment Nondiscrimination Act is being considered. . . . We feel this legislation would at least allow Senators to show that, whatever your personal convictions about the sanctity of marriage, you know that there is no sanctity in discrimination.

The letter continues on.

The Religious Action Center of Reform Judaism:

On behalf of the Union of American Hebrew Congregations and the Central Conference of American Rabbis, representing 1.5 million Reform Jews, 1800 Reform Rabbis and 850 congregations throughout the United States, I am writing to strongly urge you to vote for the Employment Nondiscrimination Act.

As a religious organization, the protection of religious liberty for all Americans is of paramount concern for us. ENDA gives proper regard to this concern. ENDA broadly exempts from its scope any religious organization, including religious educational institutions. Thus, ENDA will not require sectarian institutions to violate the religious precepts on which they are founded, whether or not we may agree with these precepts.

Evangelical Lutheran Church in America.

The Evangelical Lutheran Church in America has committed itself to participate in God's mission by "advocating dignity and justice for all people" and "joining with others to remove the obstacles of discrimination and indifference."

Therefore, the ELCA continues its support of the Employment Nondiscrimination Act and urges your support of this important initiative to extend employment discrimination protection to all people.

United Church of Christ. Rev. Jay Lintner points out:

Please support the Employment Nondiscrimination Act. The Employment Nondiscrimination Act, which addresses the daily discrimination against gays and lesbians in employment, has enormous support in our denomination.

The Presbyterian Church, their letter says:

The General Assembly of the Presbyterian Church . . . policy brings strong support to the passage of the Employment Nondiscrimination Act. Historically, U.S. society has tended to stigmatize and persecute gay men and lesbian and bisexuals. Employment is one of the principal areas where this population faces continuing discrimination. Gay persons have been fired, refused work, demoted, and harassed in the workplace. Persons who have experienced discrimination on the basis of sexual orientation often lack recourse . . . Such discrimination denies equal opportunity in the workplace . . . A yes vote on the Employment Nondiscrimination Act is a vote for fairness and equality.

Not only do we have these representations of many church leaders, I would say many companies support our position. I will just read a sample of those we have listed in our presentation from across this country that support our position.

The Kodak Co. says:

Kodak's clearly stated pro-ENDA position is based on the very positive results we have experienced with human resource policies and practices, which are completely in alignment with the intent of ENDA.

It is our belief that only with a diverse group of highly skilled people, working in a culture that enables them to apply their . . . talents, will we consistently deliver the greatest value to the customer . . .

For these reasons . . . Eastman Kodak Company believes that ENDA is good for American business, large and small. The bill is in step with trends in the nation's most successful business, and it is in tune with a fundamental sense of fairness valued by Americans.

From the Xerox Corp.:

Discrimination of any form, against any employees, does not belong in our work environment.

We view diversity awareness and acceptance as enablers to increase productivity.

We are pleased to see your effort to enact federal legislation that will prohibit employment discrimination . . .

From Microsoft:

Microsoft seeks to empower individuals to do the best possible job and to make a difference. . . .

We commend . . . your efforts and are pleased to endorse your Equal Employment Principles, which reflect our own corporate policies.

Honeywell:

Writing in support of your Equal Employment Principles and the Employment Nondiscrimination Act . . .

AT&T—the list goes on. Hill & Knowlton, a letter to Senator D'AMATO in strong support.

What this basically shows is the moral issues which are raised by this

legislation, the ethical issues, the issues of fairness and decency are embraced by the various representatives of the great religions and also many of America's leading companies that have already adopted this as a company policy and are in very, very broad support. We have mentioned a number of the larger companies. We could take the time for smaller companies as well.

In summary, we are saying that the problem of discrimination still exists today. We discuss the various studies that support that point—an excess of 20 studies that demonstrate that this type of discrimination is taking place in workplaces across this country. It is very clear what is happening.

Cheryl Summerville was told "This employee is being terminated due to violation of company policy. This employee is gay."

That states it, and that is taking place in companies all across this country.

Here is the statement of Barry Goldwater. Again:

It's time America realize that there were no gay exemptions in the right to "life, liberty, and the pursuit of happiness."

That says it all. There are no exemptions to the right to life, liberty, and the pursuit of happiness in the Declaration of Independence.

Anyone who cares about real moral values understands this is not about granting special rights. We will hear that argument over the course of this debate, that we are somehow providing special rights. This debate is about bigotry in the workplace and about prejudice in the workplace. This statement by Senator Goldwater captures that whole sense: "It's about protecting basic rights." That is what this debate is all about.

We know the status of similar State laws across country. There are nine States now that have passed laws prohibiting employment discrimination based on sexual orientation. They have been working, and working well in those nine States. But, as we say, 9 States have done it, 41 States have not. Some States have issued executive orders protecting gays and lesbians in public employment. Executive orders, as we all know, are here today and can be gone tomorrow.

We have seen, in reviewing whether there has been a proliferation of cases during this period of time—that will be another issue discussed by opponents of this bill and we will be glad to debate it—that a fair number of charges are filed, but few actually go to the courts. My own State of Massachusetts, which has had a law for some period of time, has had two reported cases. That is the situation in so many of these States that are now providing this kind of protection. The courts are not overburdened.

Madam President, 8 States have executive orders and 166 cities and counties in 37 States have passed laws prohibiting employment discrimination based on sexual orientation. And then we have the list of the various employers,

large and small, that extend protection to their employees. By and large, we have not discovered that these laws and policies are an undue burden.

Once again, to review what this does and does not do, what we are talking about is eliminating the discrimination and bigotry in the workplace, in employment. This provides there will be no quotas or preferential treatment. "A covered entity shall not adopt or implement a quota on the basis of sexual orientation." That is in the bill. "A covered entity shall not give preferential treatment to an individual on the basis of sexual orientation." That demonstrates that this is free from any affirmative action. So, no quotas, no affirmative action.

"No cases based merely on disparate impact claims." The fact that employment practices have a disparate impact, as the term "disparate impact" is used in section 708(k) of the Civil Rights Act of 1964, on the basis of sexual orientation, does not establish a prima facie violation of this title.

I will not take a great deal of time, but what that demonstrates is that individuals cannot bring disparate impact claims as they can under title VII. For example, the Supreme Court has held that there can be women firefighters as well as men. If 100 male firefighters are employed and a number of women have applied, but none has been hired, you can conclude that there is probably an employment practice that has a disparate impact on qualified women firefighters.

On the other hand, if there exists a construction company and workers must carry 100-pound bags of cement, and you are able to demonstrate the women cannot carry the 100 pounds of cement, the employer is probably not using an employment practice that has a disparate impact on women with regard to that particular job. But if you are talking about a computer company, women can use computers as well as men—in most instances, probably better. If you do not hire any female applicants, an individual may be able to establish a disparate impact charge. Those kinds of claims exist under title VII, but not under this bill. There will be some who will say it. We have expressed and explained it. We can spend more time during the course of the debate to get into greater detail, but that is the fact.

There is no coverage for the armed services:

For the purposes of this title, the term "employment or employment opportunities" does not apply to the relationship between the United States and the members of the Armed Forces.

There is no coverage for the not-for-profit religious organizations, except as provided in subsection (b), which is explained here. If they are in a for-profit business, as defined by the IRS, there will be coverage.

What we are interested in are secular, not the nonsecular, businesses.

Madam President, now, today, we have had 66 Senators and 241 Members

of the House of Representatives who have agreed with the following principle: The sexual orientation of an individual is not a consideration in the hiring, promoting, or terminating of an employee in my office. Those are signed by Republican and Democratic Members of the Senate.

Sixty-six—you would think we would be able to say, "Well, why are we having this debate on the floor of the U.S. Senate since Senators themselves understand that this is a problem and they agree that they are dealing with this by freeing their offices from hiring and firing practices on the basis of sexual orientation?"

You would think if they are prepared to do it and recognize it is a problem in their own offices, then why not lend their support to other American workplaces, particularly if we are able to demonstrate that this is a real problem. We have and we will present such evidence. We are glad to get into the various examples that demonstrate that this is a real problem in terms of our country.

So, Madam President, this is basically a preliminary presentation on this issue. The fact is, there is discrimination out there in the workplace. We have seen the studies and, most important, we have had the real testimony of men and women from across this country who continue to bear the bitter fruit of such discrimination.

There are not adequate existing laws to protect individuals who experience that kind of a discrimination. This legislation is a very measured, targeted piece of legislation to deal with bigotry and discrimination in the workplace, carefully drafted, carefully targeted to that issue. We know that there is a need.

We believe this is a reasonable response. It represents Republican and Democratic efforts to try and deal with it in the workplace of this country. I am very hopeful that when we have the opportunity to address this on the floor of the Senate with a vote on Tuesday next that we will be able to, once again, follow the very important and proud traditions of this country. Traditions rooted in the civil rights debates of the fifties, sixties, seventies, eighties, and nineties that led to laws freeing us from the pains of discrimination on race, on religion, on ethnicity, on national origin, on gender, on disability, and now on the issue of sexual orientation for gay men and lesbian women in our society.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Who yields time? The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I rise in opposition to the Employment Nondiscrimination Act and would like to take just a few moments to explain my opposition to this and my concerns.

Let me say at the outset, I do not think there is a Senator in the entire body of the U.S. Senate who condones

discrimination of any kind that is based on unreasonable and unfounded prejudice. I think that is a given. How we address that discrimination is another matter, and it is one that we have debated many times through the years on various facets of discrimination.

I still recall the compelling testimony that was presented in the Labor Committee on this issue in the last Congress when we held a hearing. Nonetheless, we may still disagree on the best means of achieving our desired goal. Prejudice and discrimination can be fought in many different ways. Education and awareness are important means of eliminating prejudice, and so is the effort of individuals to lead by way of example.

Many employers, though certainly not all—and the ranking member of the Labor and Human Resources Committee, Senator KENNEDY, pointed out a number of businesses—have led the way by example. I salute those businesses that have already based their employment decisions not on the employee's personal life or preferences but on the merits and abilities of the individual to perform the job.

I share this view, but I do not believe, as I have said before, that we will promote greater tolerance in the workplace by relying on more lawsuits and litigation as this bill would require.

True, this is not sweeping legislation as, again, Senator KENNEDY pointed out. It is a version of the original bill that I think addresses some of the concerns that were originally raised. I agree that discrimination does exist. However, our courts are already clogged with cases which many times only lead to more divisiveness and disruption in the workplace. Relying on our legal system to resolve our differences can be not only counterproductive but fraught with unintended consequences as well.

For this reason, Mr. President, I oppose the legislation before us. I know there are those who will argue that education and outreach efforts are not enough. Supporters of this bill will argue that the law must have "teeth," that is, punishment for those who discriminate if it is ever to be effective.

I might be more inclined to agree if the remedy or punishment for violating the law were merely reinstatement of one's job or simply back pay, as the original Civil Rights Act of 1964 provided. But this legislation provides for compensatory and punitive damages as well.

I opposed the expansion of remedies under title VII of the Civil Rights Act for that very reason, and I oppose it in this case as well. I believe compensatory and punitive damages will only further encourage division and protracted lawsuits when the intent, as I see it, is to encourage the parties—employers and employees—to get along. I wish that we did not have to address this by these types of remedies. We all wish there was an environment in

which, as Senator Goldwater said in his statement quoted by Senator KENNEDY, everyone could be judged on their ability to perform their job with equal merit and equal recognition.

I do not believe that this bill is the answer, because I feel we have involved ourselves far too much in a litigious environment in our workplace today, which destroys the very kind of efforts that we are trying to address in nondiscrimination with the legislation that is before us today.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield such time as my friend and cosponsor desires.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I rise in strong support of the Employment Nondiscrimination Act (ENDA). I introduced a bill this Congress with Senator KENNEDY. We held a hearing in the previous Congress and came to the strong conclusion that the public support on the one hand is almost unanimous. Some 85 percent of the people support the concept, and second, that discrimination does go on and that it must have a remedy.

I differ with the feeling of my esteemed chairman that all that is needed is more education and that the remedies are not needed. I point out also that the remedies provided for in this act are the same remedies that apply to all of the other acts that we have to prevent discrimination.

I would like to first acknowledge the hard work of many Senators who have made it possible for us to debate, and next week vote on, this important piece of legislation. I commend the majority leader and minority leader for working out an arrangement which I think is fair. It does not give us what we had hoped for, to be very candid, that we could attach ENDA to the Defense of Marriage Act (DOMA) and, therefore, have a vehicle that might carry it on through to victory. But just having an opportunity to raise the issues on the Senate floor is an improvement over history and, thus, we must move on.

I am very hopeful we will have a sufficient number of votes to pass the bill. As stated by Senator KENNEDY, it also has been shown that 66 Senators already agree in their own offices that we should not have such discrimination.

I was involved with crafting this legislation during the past few years and was pleased to join with almost one-third of my colleagues in introducing ENDA in the 104th Congress. I believe this is one of the most important civil rights initiatives before this Congress.

This legislation will extend to sexual orientation the same Federal employment discrimination protections established for race, religion, gender, national origin, age, and disability.

The principles of equality and opportunity must apply to all Americans.

Like all other Americans, gays and lesbians deserve to be judged at work based on their ability to do the job. People who work hard and perform well should not be kept from leading productive and responsible lives, which includes paying taxes, meeting their mortgage payments, and otherwise contributing to the economic life of this Nation because of an irrational, nonwork-related prejudice.

Mr. President, many may be wondering if this legislation is necessary. Let me share with my colleagues a few examples that demonstrate the need for this legislation. Earlier this week at a press conference, I was joined by Ms. Nan Miguel, a woman who was forced to leave her job—not because she was a gay or lesbian—even though her department was short-staffed, simply because she defended her decision to hire another female employee who was considered by her fellow employees to be a lesbian. No proof. She still does not know.

Another example is John Howard, a student from Alabama who was giving tours of a regional paper company's large art collection in order to earn graduate school tuition. A coworker told his supervisor that he suspected that Mr. Howard was gay. The supervisor called him in, acknowledged that his work was "perfect," and asked him whether he was gay or belonged to any gay organizations. After learning that Mr. Howard was president of the University of Alabama Gay and Lesbian Alliance, the supervisor fired him. These examples and many others show that Congress must pass the Employment Nondiscrimination Act.

Mr. President, it is not only needed, it is supported by the American people. And in a recent poll, well over three-quarters of the respondents stated that there should be equal rights for Americans, including gays and lesbians, on the job. While ENDA will achieve this goal for job opportunity, it does not do so by creating any special rights for gays and lesbians.

Specifically, this legislation prohibits preferential treatment, including quotas, based on sexual orientation, and also does not require an employer to justify a neutral practice that may have a statistically disparate impact. This is a very complicated area of the law and one which is very difficult for employers to meet. It does not apply to this. Rather, it simply protects a right which should belong to every American, the right to be free from discrimination at work because of personal characteristics unrelated to successful performance on the job.

Securing this right benefits businesses as well as individuals. As Chad Gifford, CEO of the Bank of Boston, said recently:

... there are compelling business reasons why we support ENDA and the workforce diversity it will engender. We want to see ENDA approved because we believe that it will help us as we advance a competitive business strategy—a strategy that not only

embraces diversity, but also depends on it and takes full advantage of it.

Many other businesses have joined the Bank of Boston in adopting similar sexual orientation antidiscrimination policies. In fact, over half of the Fortune 500 companies have such policies.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of employers with nondiscrimination policies that include sexual orientation.

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

**EMPLOYERS WITH NON-DISCRIMINATION POLICIES THAT INCLUDE SEXUAL ORIENTATION—AS OF AUGUST 16, 1996**

**ALABAMA**

Intergraph, *SCI Systems*, America West Airlines, Arizona State University, and Bashas' Incorporated.

**ALASKA**

University of Alaska.

**CALIFORNIA**

*AST Research*, Acuson, *Advanced Micro Devices*, Agouron Pharmaceuticals, Allergan, Amdahl, *American President*, Amgen, Antioch University (Southern California), *Apple Computer*, *Atlantic Richfield*, Autodesk, *Avery Dennison*, Bank of California, *Bay View Federal Bank*, Bergen Brunswig, Borland International, Brobeck, Phleger & Harrison, California Institute of Technology, California State University, Charles Schwab & Company, *Chevron*, Cisco Systems, Claremont McKenna College, Claris, Clorox, Cypress Semiconductor, *Del Monte Foods*, *Dole Food*, First Interstate Bancorp, *Fluor Daniel*, *Foundation Health*, Gap, Genentech, Glendale Federal Bank, *Golden West Financial*, Graham & James, *Great Western Financial*, *H.F. Ahmanson & Company*, Harvey Mudd College, Health Systems International, Heller, Ehrman, White & McAuliffe, *Hewlett-Packard*, Homestake Mining, *Intel*, International Technology, Kaiser-Permanente, LSI Logic, Latham & Watkins, *Levi Strauss & Company*, Los Angeles Times, MCA Universal Studios, McCutchen, Doyle, Brown & Enersen, *McKesson*, *Merisel*, Morrison & Foerster, National Center for Lesbian Rights, NeXT Computer, O'Melveny & Meyers, *Occidental Petroleum*, Oracle, Orrick, Herrington & Sutcliffe, *Pacific Enterprises*, *Pacific Mutual Life*, *Pacific Telesis Group*, Pacificare Health Systems, Paul, Hatings, Janofsky & Walker, Pillsbury, Madison & Sutro, Pitzer College, Pomona College, Qual Comm, *SCE*, *Safeco*, *Safeway*, San Diego Gas & Electric, San Diego State University, San Francisco Giants, Science Applications International, Scripps College, *Silicon Graphics*, *Southern Pacific Rail*, Stanford University, *Sun Microsystems*, Sybase, Tandem Computers, *Teledyne*, *Tenent HealthCare*, *Transamerica*, Ungermann-Bass, *Varian Associates*, *Walt Disney*, Watkins-Johnson, *Wells Fargo & Company*, Wilson, Sonsini, Goodrich & Rosati, Working Assets Funding Service, and Wynn's International.

**COLORADO**

Adolph Coors, Amrion, Celestial Seasonings, Colorado College, Compatible Systems, Quark, *Storage Technology Tenet Healthcare Systems*, and US West.

**CONNECTICUT**

*Caldor*, Deloitte and Touche, Dexter, Louis Dreyfus North American, *Northeast Utilities*, *OLIN*, People's Bank, *Perkin-Elmer*, *Pitney Bowes*, State Universities of Connecticut, *Union Carbide*, United States Surgical, *United Technologies*, University of Connecticut, University of Hartford, and Xerox.

**DISTRICT OF COLUMBIA**

AFL-CIO, American Civil Liberties Union, American Postal Workers Union AFL-CIO, American Psychological Association, American University, Catholic University of America, Covington & Burling, *GEICO*, Hogan & Hartson, Howrey & Simon, Human Rights Campaign, *MCI Communications*, *Mariotti*, McKenne & Cuneo, Mexican American Legal Defense and Education Fund, National Black Caucus of State Legislators, National Gay & Lesbian Task Force, National Public Radio, Presbyterian Church (USA), *Riggs National*, Skadden, Arps, Slate, Meagher & Flom, Southernland, Asbil & Breenan, *Washington Post*, Wilmer, Cutler & Pickering, and World Resources Institute.

**DELAWARE**

*E.I. du Pont de Nemours and Company*.

**FLORIDA**

AAA, Eckerd College, *Knight-Ridder*, Office Depot, *Ryder System*, *Tech Data*, and University of South Florida.

**GEORGIA**

*AFLAC*, BellSouth Telecommunications, *Coca-Cola*, Crawford and Company, Emory University, Georgia Southern University, Georgia Tech, *Home Depot*, *Turner Broadcasting System*, University of Georgia, and WORLDSPAN.

**HAWAII**

Hawaiian Electric Industries, Alexander and Baldwin, Bank of Hawaii, and University of Hawaii.

**IDAHO**

*Albertson's and Morrison Knudsen*.

**ILLINOIS**

*Abbott Laboratories*, Alberto-Culver, *Ameritech*, Amoco, Andersen Consulting, Aon, Baker & McKenzie, *Baxter International*, CNA, Chicago School of Professional Psychology, Columbia College, *Comdisco*, *Commerce Clearing House*, Commonwealth Edison, Datalogics Equipment, Fireman's Insurance, *First Chicago NBD*, Harrington Institute of Interior Design, Harris Trust & Savings Bank, Hinshaw & Culbertson, Illinois Eastern University, Illinois Northeastern University, Illinois Northern University, Illinois Southern University, Illinois State University, *Illinois Tool Works*, *Inland Steel Industries*, Jenner & Block, Katten, Muchin & Zavis, Keck, Mahin & Cate, Kirkland & Ellis, Mayer, Brown & Platt, *Motorola*, *Navistar International*, *Quaker Oats*, *R.R. Donnelley & Sons*, Sara Lee, Schiff, Hardin & Waite, School of the Arts Institute, *Sears, Roebuck & Company*, *Servicemaster*, Seyfarth, Shaw, Fairweather & Geraldson, Sidley & Austin, *Speigel*, UAL, *Unicom*, *United Airlines*, University of Chicago, W.W. Grainger, *Walgreen*, Winston & Strawn, and *Zenith*.

**INDIANA**

Anthem, Arvin Industries, *Eli Lilly & Company*, Goshen College, *Lincoln National*, and Methodist Hospital of Indianapolis.

**IOWA**

Drake University, Grinnell College, Pioneer Hi-Bred, and *Principal Mutual Life Insurance*.

**KANSAS**

University of Kansas and V.T.

**KENTUCKY**

*Ashland Petroleum*, Kentucky Fried Chicken, and *Providian*.

**LOUISIANA**

Hibernia National Bank.

**MAINE**

Bates College, Bowdoin College, Colby College, *Hannaford Brothers*, and UNUM.

**MARYLAND**

*Baltimore Gas and Electric*, *Giant Food*, Piper & Marbury, Prince George's Commu-

nity College, and Workmens Circle Branch 92/494E.

**MASSACHUSETTS**

Amherst College, Babson College, *Bank of Boston*, Banyan Systems, Boston Edison Company, Boston Scientific, Brandeis University, Children's Hospital of Boston, *Digital Equipment*, Eastern Enterprises, Eastern Utilities Associates, *Gillette*, Hale and Door, Hampshire College, Harvard University, Hotel Workers Union—Local 26, International Data, Keyport Life, Massachusetts Institute of Technology, *Massachusetts Mutual Life*, Millipore, *New England Electric Systems*, *Polaroid*, *Reebok*, Reebok International, Ropes & Gray, *Stop & Shop*, Stratus Computer, *TJ Maxx*, WGBH Public Television, and Wainwright Bank.

**MICHIGAN**

Alma College, *CMS Energy*, *Comerica*, *Dow Chemical*, Herman Miller, *Kellogg*, Pharmacia & Upjohn, and Tecumseh Products.

**MINNESOTA**

Apogee Enterprises, Bemis, Carleton College, Ceridan, Control Data Systems, *Cray Research*, *Dayton Hudson*, Faegre & Benson, *First Bank System*, Graco, H.B. Fuller, *Hormel Foods*, IDS Financial Services, *Medtronic*, *Minnesota Mining and Manufacturing (3M)*, Minnesota Public Radio, *Nash Finch*, *Northern States Power*, *Norwest*, Piper Jaffray Companies, *St. Paul Companies*, *Supervalu*, *United Healthcare*, and University of Minnesota.

**MISSOURI**

*Boatmen's Bancares*, *H & R Block*, *Payless Cashways*, and *Ralston Purina*.

**NEW HAMPSHIRE**

Antioch University (New England), Dartmouth University, Eastern Mountain Sports, Franklin Pierce Law Center, Hendrix Wire and Cable, Hubbard Farms, Huggins Hospital, Keene State College, Nashua, New England College, Plymouth State College, and University of New Hampshire.

**NEW JERSEY**

*Allied Signal*, *Becton Dickinson*, *Campbell Soup*, *Chubb*, *Johnson & Johnson*, *Merck & Co.*, *Midlantic Bank*, *Public Service Enterprise Group*, Sequent Computer Systems, *Supermarkets General*, *Toys R Us*, UJB Financial, and Warner-Lambert.

**NEW MEXICO**

University of New Mexico.

**NEW YORK**

*AVENET*, Amerada Hess, *American Express*, *American Telephone & Telegraph Company*, AnnTaylor Stores, Arrow Electronics, *Bank of New York Company*, *Bankers Trust New York*, Barnard College, *Bear Stearns*, *Bristol-Myers Squibb*, Brooklyn College, Brooklyn Union Gas, CBS, CMP Publications, Cadwalader, Wickersham & Taft, Capital Cities/ABC, Chadbourne & Parke, *Chase Manhattan*, *Chemical Banking*, *Citicorp*, Clarkson University, Cleary, Gottlieb, Steen & Hamilton, *Colgate Palmolive*, Columbia University, Cornell University, Cravath, Swaine & Moore, *Dean Witter*, Dewey Ballantine, Dow Jones, Fordham University School of Law, Hill & Knowlton, Hunter College, *ITT*, *International Business Machines*, *International Paper*, J.P. Morgan, Joseph E. Seagram & Sons, Kaye, Scholer, Fireman, Hays & Handler, Kelley, Drye & Warren, Lambda Legal Defense Fund, Lawyers Cooperative Publishing, LeBoeuf, Lamb, Greene & MacRae, Lesbian and Gay Labor Network, *Long Island Lighting*, *Metropolitan Life*, Milbank, Tweed, Hadley, & McCloy, Mutual of New York, National Audubon Society, *New York Life Insurance*, *New York Times*, New York University, *Niagara Mohawk Power*, OMI, Ogden, Paul, Weiss, Rifkind, Wharton & Garrison, *Philip Morris*, Planned Parenthood Federation of



America, Proskauer Rose Goetz & Mendelsohn L.L.P., *Republic* NY, Rogers & Wells, *Salomon Brothers*, Scholastic, Shearman & Sterling, Showtime Networks, Skadden, Arps, Slate, Meagher & Flom, Stanley H. Kaplan Educational Center, Stroock, Stroock & Lavan, Sullivan & Cromwell, *TIA-CREF*, *The Equitable Companies*, *Time Warner*, Towers Parrin, *Travelers Group*, University of Buffalo, *Viacom*, Village Voice, *Westvaco*, Whitman Breed Abbott & Morgan, *Woolworth*, and Ziff-Davis Publishing.

## NEVADA

Showboat.

## NORTH CAROLINA

Appalachian State University, Body Shop, Duke University, *First Union*, and Guilford College.

## OHIO

*American Electric Power*, Antioch College, *Banc One*, Case Western Reserve University, *Cinergy*, *Federated Department Stores*, Macy's (formerly Jordan Marsh), Myers Industries, Oberlin College, *Procter & Gamble*, *Revco Drug Stores*, The Limited, University of Akron, University of Cincinnati, and Vorys, Sater, Seymour and Pease.

## OREGON

Fred Meyer, *Pacificorp*, Portland Cable Access, Portland General, Stoel Rives L.L.P., Tektronix, and *US Bancorp*.

## PENNSYLVANIA

*Air Products & Chemicals*, American Friends Service Committee, *Armstrong World Industries*, Ballard, Spahr, Andrews & Ingersoll, *Bell Atlantic*, Bloomsburg University, Bucknell University, Carnegie Group, Carnegie Mellon University, *Cigna*, Clarion University, *Conrail*, *Consolidated Natural Gas*, *CoreStates Financial*, *Crown Cork & Seal*, Dickinson College, Drew University, Drexel University, Edinboro University, Harsco, Haverford College, Kirkpatrick & Lockhart, Lehigh University, Lukens, *Mellon Bank*, *PECO Energy*, Penn Mutual Life Insurance, *Pennsylvania Power and Light*, Pennsylvania State University, Pepper, Hamilton & Scheetz, *Rite Aid*, SmithKline Beecham, State College, Swarthmore College, Temple University, *Unisys*, University of Pennsylvania, University of Pittsburgh, *VF*, and *York International*.

## RHODE ISLAND

Brown University.

## SOUTH CAROLINA

Flagstar.

## SOUTH DAKOTA

Gateway 2000.

## TENNESSEE

OrNda Health.

## TEXAS

AMR, American Airlines, *Central & South West*, Dallas Area Rapid Transit, *Dell Computer*, *Exxon*, *Formeyer Health*, *Greyhound*, *SBC Communications*, Southwestern Bell, *Tandy*, and *Temple-Inland*.

## VIRGINIA

*Federal Home Loan Mortgage*, First Virginia Bank, *Gannett*, *General Dynamics*, Hunton & Williams, *Mobil*, and *USAir Group*.

## VERMONT

Ben and Jerry's Homemade and Gardener's Supply.

## WASHINGTON

Antioch University (Seattle), Evergreen State College, Fred Hutchinson Cancer Research Center, Group Health Cooperative of Puget Sound, *Nordstrom*, *Paccar*, Perkins Coie, *Price/Costco*, Recreational Equipment Inc (REI), *SAFECO*, Seattle City Light, Seattle First National Bank, Seattle Mental

Health Institute, Seattle Public Library, Seattle Times, Starbucks Coffee, University of Washington, Washington Mutual, Washington State University, and *Weyerhaeuser*.

## WISCONSIN

CUNA Mutual Insurance Group, Consolidated Papers, Harley Davidson, *Johnson Controls*, *Northwestern Mutual Life Insurance*, *Roundy's*, Wisconsin Energy, and YWCA of Greater Milwaukee.

Partial list; *Fortune 500* in *italic*.

Mr. JEFFORDS. In today's global economy our Nation must take full advantage of every resource that is at our disposal. We want U.S. companies to maintain their competitive advantage over their international competitors. This statement from Mr. Gifford, combined with the fact that a majority of the Fortune 500 companies have incorporated many of ENDA's policies, clearly indicates that these changes will not disrupt but improve the workplace. At this time in our country when we are short of skilled workers, we should not have anything that bars those skilled workers from an opportunity to have a job to assist us in our society.

Mr. President, some concerns have been raised by my colleagues that passing ENDA will create a new wave of litigation. I am proud to say that my home State of Vermont is one of several States and localities that have enacted a sexual orientation anti-discrimination law. It is no surprise to me that the sky has not fallen. Since the enactment of Vermont's law in 1991, 5 years ago, the Vermont attorney general has initiated only 14 investigations of alleged sexual orientation discrimination. Six are pending at this time. Four have been closed with determinations that unlawful discrimination cannot be proven to have occurred. Three have been closed for miscellaneous administrative reasons unrelated to the charge, and one resulted in a settlement.

There has been no huge litigation involved in Vermont. It has little or no burden when you figure how many that is per year, about three a year in the State. In addition, I am not aware of a single complaint from Vermont employers about the enforcement of the State law. However, I do know that thousands of Vermonters no longer need to live and work in the shadows. Vermont's experience is not unique. Other States and the District of Columbia have implemented policies similar to the one of my home State of Vermont with similar results.

As I have stated before, success at work should be related to one's ability to do the job and nothing else. The passage of ENDA would be one step toward ensuring the ability of all people, be they gay, lesbian or heterosexual, to be fairly judged on the work product, not on unrelated personal characteristics. Passage of ENDA could be perhaps one of the most important things this Senate could do this year.

Let me go back and summarize again and to straighten out some of the misconceptions regarding ENDA. First of

all, this legislation does not create any special rights. Specifically, this legislation prohibits preferential treatment, including quotas based on sexual orientation. It simply protects a right that should belong to every American, the right to be free from discrimination at work because of personal characteristics unrelated to successful performance in the job.

I also would like to point out that we have gone and looked at those areas which do create difficulties for business, areas which might lead to litigation. And for the reasons of those that hold a fear of that litigation, we have not provided all of the protections to sexual orientation that race, religion, gender and others have. ENDA, for instance, does provide for the same remedies—injunctive relief and damages—permitted under title VII and the Americans With Disabilities Act and also does apply to Congress with the same remedies as provided by the Congressional Accountability Act.

This last application is very important to me because I believe it is very important that Congress not only live with the laws we pass, but I feel it is very important that an example should be set by Congress that gays and lesbians should not only be allowed to contribute to the economic life of the Nation but the political one as well. I once again point out that we have 66 offices that have already accomplished this.

More importantly, for the specific areas that have created problems for employers, ENDA does not require an employer to justify a neutral practice that may have a substantial disparate impact based on sexual orientation. That means you do not have to prove by figures that you have hired enough gays and lesbians to show that you have complied with the law. Let me state again that ENDA does not require that. That requirement would be very difficult to meet. ENDA exempts small businesses, as do existing civil rights statutes. Thus, it does not apply to employers with fewer than 15 employees.

Finally, ENDA does not require an employer to provide benefits for the same-sex partner of an employee. This is a requirement which would be problematical for many.

So we have done everything we believe we can do to reduce the amount of litigation, to reduce the amount of concern of employers, and certainly small businesses, and as we do in other areas, to prevent any real burden on close working situations.

As I have stated before, a successful workplace should be directly related only to one's ability to do the job, period. The passage of ENDA would be one step toward ensuring the ability of gays, lesbians, and heterosexuals to be fairly judged on their work product, not on an unrelated personal characteristic. Passing ENDA could perhaps be one of the most important things this Congress could do.

Once again, I am pleased that we have this opportunity, and I want to

thank, again, the majority and minority leaders for the system that has been set up to allow us to get a straight vote on this issue, and I look toward the day we succeed in getting ENDA enacted into law. Mr. President, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I yield as much time as the Senator from Utah would like to have.

Mr. HATCH. Mr. President, I oppose this legislation. The bill before the Senate has vast ramifications. This bill represents a massive increase in Federal power. For example, Federal bureaucrats, Federal courts, and plaintiffs' lawyers will be given enormous new sway over our Nation's private employers, as well as State and local governments. This bill will be, if it passes and becomes law, a litigation bonanza.

I think I have a reputation around here as supporting civil rights legislation. I do not want to see any discrimination against anybody in our society. As the coauthor of the AIDS bill, as the coauthor of the Hate Crimes Statistics Act, and other bills, I think my reputation is that of someone who decries discrimination in any form in our society. However, this bill, in my opinion, is the wrong way to go.

Moreover, notwithstanding ineffective language in the bill, Federal bureaucrats at the Equal Employment Opportunity Commission, lawyers at the Department of Justice, along with plaintiffs' lawyers in Federal courts, will open up an entirely new category of preferences and reverse discrimination. This new category, make no mistake about it, will be based on sexual orientation. The moral and religious sensibilities of millions of Americans will be overridden if this legislation comes to pass and is enacted into law.

Let me turn to each point, starting with the vast increase in Federal Government power created by this bill. Mr. President, I respectfully submit that a vote for this bill is a vote to give the Equal Employment Opportunity Commission the power to require employers to provide the Government with data on the sexual orientation of their employees. Today, under title VII, the EEOC asks numerous employers to provide statistics on the racial, ethnic, and gender composition of their work forces and new hires.

Let me stress, so that no one is misled by the bill's section on disparate impact, that statistics on the composition of a work force are not used just in disparate impact cases. These statistics are frequently used to prove cases of intentional discrimination on the basis of race, ethnicity, and gender, including pattern and practice cases.

Section 11 of the bill grants to the EEOC "with respect to the administration and enforcement of this act" the same power the EEOC has to administer and enforce title VII of the 1964

Civil Rights Act. The EEOC, the Department of Justice, and plaintiffs' lawyers, will be able to use such statistics on the sexual orientation of employees at a particular workplace in proving cases of intentional sexual orientation discrimination under this bill. As I mentioned earlier, these would include pattern and practice cases that the Federal Government is now able to bring against employers under title VII.

Here is what is authorized by this bill: someone alleges that he or she was denied a job because of the complainant's homosexuality. The Federal Government investigates. Perhaps there is evidence that a supervisor in the personnel office made statements expressing disapproval of homosexuality. Perhaps the Department of Justice or the EEOC received similar complaints from one or two other job applicants. The appropriate Federal agency could then turn to the statistical profile of that employer's work force and recent hires. If there are no homosexuals in that work force, or virtually none, if all or almost all recent homosexual job applicants were denied a job, those statistics can be used by the Government, or in a private lawsuit, as evidence of intentional discrimination.

I hope that no Senator is under the misimpression that the use of statistical evidence in so-called underrepresentation cases is forbidden by this bill. This bill authorizes, indeed invites, the use of statistics based on sexual orientation by its grant to the EEOC of authority that it now has under title VII. Now some might ask, would the EEOC really seek such statistics? My answer is that EEOC is part of the very same bureaucracy which presently makes heavy use of statistics under title VII, and which played so crucial a role in the creation of preferences and reverse discrimination under that statute.

Let me give one more example of the vast power this bill gives to the Federal bureaucracy and the Federal courts. Under title VII, harassment in the workplace on the basis of race, ethnicity, gender, and religion is forbidden, and properly so. If this bill becomes law, what is going to happen if a supervisor, based on religious or moral beliefs, expresses disapproval of homosexuality and there are homosexual employees in that workplace? What is going to happen if one or more employees express such views and supervisors are aware of those investigations and do nothing about them? The answer is there will likely be a lawsuit claiming a hostile work environment exists which adversely affects homosexual employees. However that lawsuit is resolved, think of the new costs imposed on our Nation's employers in dealing with these new lawsuits. It is bad enough under the current law.

Mr. President, it is also certain that reverse discrimination and preferences will result from this bill. Some will ask, how can that be? The bill says "a

covered entity shall not give preferential treatment to an individual on the basis of sexual orientation." That is in section 7. But the bill says something more. The bill gives Federal courts "The same jurisdiction and powers as such courts have to enforce title VII of the Civil Rights Act of 1964." That is in section 11(a)5. Further, "The procedures and remedies available for a title VII violation" are available under this bill, and that is section 11(b)1.

Now, let us take a look at section 706(g) of title VII. That provision of title VII says that if the court finds that an employer intentionally discriminated, the court may enjoin such discrimination "and order such affirmative action as may be appropriate or any other equitable relief as the court deems appropriate." Now, Mr. President, if you only read this bill, you will miss the powers this bill grants to the Federal Judiciary, including those pertaining to affirmative action are not evidence.

We all know, Mr. President, regretfully, that the Supreme Court has construed section 706(g) of title VII to permit Federal courts in limited circumstances of persistent egregious, intentional discrimination to impose preferences as remedies in title VII cases. I have said the preferences are never appropriate as a remedy. But the same remedies under title VII will be available under this bill. Preferences on the basis of sexual orientation will be imposed when Federal courts think that an employer has intentionally discriminated in a persistent and egregious way, and whether we agree with this view or not, many employers have very strong religiously based/morally based objections to homosexuality which they may reflect in their employment practices that could well give rise to remedial orders of a preferential way in a number exceeding that which we have seen under title VII.

Further, the Supreme Court has told us that a consent decree pursuant to a statute is part contract and part enforcement of the statute itself. The Federal agencies which bring the lawsuits under this bill have enormous leverage. These cases are very costly to defend, make no mistake. These agencies, as well as plaintiffs' lawyers in private cases, will also be able to extract consent decrees containing preferential relief from employers because the employers paid then because it is too expensive to fight them.

Section 7 of this bill does not order the analysis. It does not limit a court's remedial power. Title VII has a similar provision, yet the Supreme Court told us the remedial authority of the courts are governed by section 706(g).

The proponents of this bill can make the very same statement that our revered late colleague and dear friend of mine, Senator Hubert Humphrey, made during debate on the 1964 Civil Rights Act in response to concerns expressed about preferences and quotas. He said



he would eat the pages of the CONGRESSIONAL RECORD, one after the other, if someone could show him where these preferences are in title VII. Within 5 years after the enactment of that act, Federal agencies and courts had misused title VII to create preferences, something the prime sponsor of that bill said could not occur. The very same agencies will enforce this bill on sexual orientation, under virtually identical provisions. So if the proponents of this bill want to tell the Senate the same thing our dear colleague Senator Humphrey told the Senate in 1964, I have no doubt that someday I will be sending them a copy of today's CONGRESSIONAL RECORD, together with a knife and fork and something to wash down the pages.

I might add this, that a plaintiff's ability to use statistics to prove intentional discrimination is going to be a powerful silent incentive to employers to hire by the numbers on the basis of sexual orientation, in order to avoid these lawsuits.

Mr. President, let me make one more point on affirmative action under this bill. There are forms of remedial affirmative action under title VII that I do support. For example, I believe it is appropriate for employers to be required to recruit and advertise to increase the applicant pool for members of such groups.

This is a fairly routine remedy. Under this bill, an employer who discriminates on the basis of sexual orientation against homosexuals will likely be required to undertake such recruitment, such as by advertising among homosexual groups and media outlets. Should we be imposing this requirement on employers in the matter of sexual orientation? I do not think so.

Let me note, Mr. President, that many employers have honest moral, religious-based objections to hiring homosexuals. These are views that should not be dismissed. I will mention one example. The July 19, 1996, Washington Post reported that a Loudoun County teacher and coach had starred in gay pornographic videos. This person had a job teaching health and physical education at Farmwell Station Middle School in Ashburn, VA. He was also an assistant coach for boys football, baseball, and wrestling at a high school.

Loudoun School Superintendent Edgar B. Hatrick III said if the allegations were true, he would seek to fire the teacher. He noted, "We believe that teachers, as people who are chosen to be instructors as well as leaders of our young people, should be exemplary in their professional as well as personal lives. What we have here is an allegation of a lifestyle that is not in keeping with that. If the allegations are true, that is not conduct befitting a teacher."

I suspect that the principal would have taken the same attitude if it had been a pornographic movie starring a heterosexual teacher, and rightfully so.

One parent of a daughter who attended a school where this person

taught said she believed that what people do in their private lives is their business—unless they are teachers. "I want our teachers to have the highest moral fiber. I'm not comfortable with him doing both." A school board member said, "Here we have a teacher in a middle school working with children who are at that age where they are struggling with their \* \* \* identity. This is obviously a person who has made bad choices. To give someone like this access to children at that stage of development would be irresponsible of us."

Mr. President, those views are overriden by this bill. And even if one disagrees with these school officials and parents, as the proponents of this bill may do, is it appropriate for this Senate to run roughshod over their concerns? I know the supporters of this bill, including President Clinton who has strongly endorsed it, are sincere.

In particular, I have worked very closely in the past with my friend, Senator KENNEDY, on these matters. I have tried to be with him where I believe he is correct, and he has tried to be with me where he believes I have been correct.

But the people in Loudoun County and millions of other Americans who agree with them are also sincere.

Mr. President, in the version of this bill introduced last night, section 10 states that a covered employer can enforce rules "regarding nonprivate sexual conduct, if such rules of conduct are designed for, and uniformly applied to, all individuals regardless of sexual orientation." This provision provides little help to the people of Loudoun County and across this country who have similar concerns. Its fundamental flaw is that in order to enforce rules under this section, homosexuality and heterosexuality must be treated entirely alike.

Suppose a male teacher kisses his female spouse goodbye in front of the schoolchildren in the morning as she drops him off at school. Some might find such warmth and affection between husband and wife a good thing for the children to see. But Loudoun County would have to fire that male teacher before this bill would permit the county to fire a male teacher for kissing his male partner in front of the children at school. Or, suppose a single male teacher, during nonschool hours and in public, holds hands, walks arm in arm with his girlfriend, and engages in some kissing. I can well understand if the school authorities do not find that public behavior a matter for discipline. Under this bill, however, these same school authorities could not take action against a male teacher who engages in the very same public actions I just mentioned, with another male. I think that forcing Loudoun County to treat both situations the same, in terms of role models for schoolchildren and the other concerns parents and educators might have, is wrong.

Mr. President, let me note some of the other flaws in the bill. The bill says

it does not apply to the Armed Forces, defined as the Army, Navy, Air Force, Marine Corps, and Coast Guard. But the bill would apply to other elements of our military structure, such as the National Guard. Moreover, if the proponents of the bill think the military should be exempt, why didn't they exempt State and local police departments, and other law enforcement agencies at the local, State, and Federal levels? These are paramilitary organizations. They deal with domestic threats to the peace and our security. If some of the forces that deal with foreign threats to the peace and our security are exempted from the bill, why shouldn't the domestic law enforcement agencies be treated the same way? I might add that in many States homosexual conduct is illegal, by statute or common law, yet this bill would compel the law enforcement agencies in those States to hire individuals who are acknowledged to engage in such conduct.

Let me also say that my support for the Hate Crimes Statistics Act, which Senator SIMON and I have gotten through the Senate and enacted into law twice, is fully consistent with my position on this bill. My view that absolutely no one should be subjected to violence or vandalism because of who they are is, of course, widely shared. But it does not follow from the fact that while everyone, including homosexuals, should be free of violence, society must confer affirmative civil protections on the basis of sexual orientation not available, I might add, to everyone else.

I would urge President Clinton to reconsider his support of this bill. I don't think we would be taking it up today if he wasn't such a strong backer of the bill. I don't think it would have a chance of passage if he opposed the bill, a bill which has so many noticeable flaws.

Mr. President, those are just some of my feelings with regard to this bill. I have watched these EEOC applications of title VII and the court applications of title VII for many years. I believe that I have spoken the truth here about what really is happening, what has happened, and what will happen if this bill is passed. It would lead to a bonanza of litigation that would be second to none in the history of this country, and I think, frankly, that it is not in the best interest of the country, and would be used to trample right over the rights of many people who have sincerely held religious views about the matter.

Mr. President, I may have some more to say about this bill later.

I yield the floor at this time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I know others want to speak, but I want to address briefly the issue of remedies that has been referred to by my colleagues who have

stated their opposition to this legislation—both their concern about the additional burden on the courts and also on the issues of remedies.

I think we can look at the nine States that currently have virtually the same kind of law that we are proposing. Most of them have some form of an equal employment commission in their various States.

I will include this in the RECORD.

To talk about the number of cases that have been brought in the State court system, in Wisconsin they passed a law similar to this in 1982. They have had one reported case between 1982 and 1993. In California, since 1992, they have had five reported cases. In my own State of Massachusetts, we have had two reported cases since 1989; Minnesota, since 1991, three reported cases; New Jersey, since 1991, zero reported cases; Vermont, since 1991, one reported case; Connecticut, since 1991, they have had four reported cases; Hawaii, since 1991, zero reported cases; Rhode Island, since 1991, zero reported cases.

What we have seen since this law was passed is not the kind of proliferation of cases. What we are seeing is compliance.

Finally, let me just say with regard to remedies, I remind our colleagues that in the remedies section, as has been pointed out by Senator JEFFORDS, we are basically tracking title VII of the Civil Rights Act, and we are talking about the 1991 Civil Rights Act. Therefore, the damages are capped. They do not cap them on the basis of race. They do not cap them in terms of religious discrimination or national origin. They cap them solely on gender—women—the disabled, and now on gay and lesbians. We put a cap on them.

I would like to believe, if we are talking about discrimination that is taking place against American citizens, we would apply remedies fairly to all victims of discrimination. But nonetheless, currently, women and the disabled and, when this legislation becomes law, gays and lesbians, are held to a second-class standard in terms of remedies. With all due respect to those who are complaining about remedies, we already included a cap to gain support. We are not altering or changing that.

Third, I advise my good friend from Utah to review the legislation. There is no requirement in this legislation that any company has to keep statistics—his admonition that we have to be concerned because of disparate impact claims is without merit. Disparate impact claims are specifically excluded. Statistics are not necessary. So I have difficulty in following the logic of his comment.

Basically, what we are talking about is this, Mr. President:

People like Cheryl Summerville who received a notice that said, "This employee is being terminated due to violation of company policy. This employee is gay."

That is what we are talking about. We are talking about blatant, flagrant

discrimination and bigotry that exists in our country that some States have identified. That is what is at issue. That is what we are addressing. We obviously welcome the opportunity to take various recommendations or suggestions about how to make it better.

The final point I make, Mr. President, is that I heard my colleague say that a lot of people have strong religious beliefs not to associate with homosexuals. We went through a period not long ago when a lot of people had moral beliefs, ethical beliefs not to associate with blacks, Latinos or Asian-Americans, and basically what civil rights laws have stood for is that individuals cannot use those beliefs in order to discriminate against fellow Americans. That is the basis of the civil rights laws that exist to address the issues of discrimination on race, on religion, on ethnicity, on national origin, on gender and disability. All we are attempting to do is to extend it.

For those reasons, Mr. President, and the others mentioned earlier, I hope we can move forward with the legislation.

I see my friend, the Senator from Nebraska.

Mr. HATCH. Mr. President, could I just answer the Senator?

If the distinguished chairman will yield 2 minutes to me, I would appreciate it.

Mrs. KASSEBAUM. I would be happy to yield to the Senator from Utah.

Mr. HATCH. I thank my colleague.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Keep in mind the Senator just got through equating homosexuality with race, which is exactly what is going to happen should this legislation pass.

Mr. President, I might add that the experience under State law that he refers to is largely irrelevant. Experience under State law cited by my friend from Massachusetts, in my opinion, is irrelevant. I cited the remedial provision of title VII, section 706(g), which gives Federal courts the power to award affirmative action relief. That is extremely different from the State statutes with regard to this.

The Supreme Court has said in some cases preferential relief can be granted. The Court said that consent decrees with preferential relief may be entered. Since the bill does incorporate section 706(g), the same thing is going to happen here. It opens up a massive Federal role in employment matters with regard to gay and lesbian people.

I have to say I am uncomfortable with both sides on the issue because I think the bill is not written well. I think it does not solve these problems. It will lead to tremendous Federal Government control over the employer workplace throughout the country, and I think it will lead to the same sort of sets of preferences that we see today under title VII that were said could never happen.

These are some of the things that bother me. On the other hand, I do not

want to see gay and lesbian people discriminated against. But I just heard my colleague from Massachusetts equate homosexuality with race by saying the churches have had to comply with the Civil Rights Act. That is true. On the other hand, he excludes churches in here but not the profit-making aspects of the church, of the particular churches involved, which may include publication, it may include running facilities for the benefit of their members, it may include any number of other situations that may be considered profitmaking. Yet the particular religious belief may be such that it condemns homosexual conduct and sincerely does so and does so as a right of that religious institution, longstanding religious institutions in some cases, highly recognized, mainstream churches that have doctrines and principles that condemn homosexual conduct, and yet it would require them to have to comply with this law as it is written, and I believe in ways that will be very similar, no question about it, in ways that will be exactly like the requisites of title VII today.

As Gen. Colin Powell so eloquently stated in a May 1992 letter to Representative PAT SCHROEDER defending restrictions on homosexuals in the military, he said:

Skin color is a benign nonbehavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument.

I think he makes a good point. I do not think there is any question about it.

This bill gives the EEOC the same power to administer and enforce this bill as the EEOC has under title VII. Under title VII, the EEOC collects statistics. It is in the regulations in 29 CFR, subpart A, B, and C. So to compare this with the States and the fact that there may be a dearth of suits under State law belies the fact that under Federal law there will be a proliferation of suits and I think testing of this matter all over the country, and I do not know that you will have any choice other than to apply the law as the Supreme Court has interpreted section 7 in bygone days and bygone ages. If that is the case, you are going to have, I think, an awful lot of difficulty in our society and especially among religious institutions and others that take highly moral views of these matters that I think will be very disruptive to our country.

Having said that, I would like to continue to explore a way, some way of encouraging people in our country to be fair to gays and lesbians in our society. I do not think anybody should be discriminated against. On the other hand, these Federal statutes have sometimes resulted in discrimination against people who have sincerely held beliefs, religious or otherwise, that I think are valid.

So having said that, I do not see the analogy, but I will accept the statements of the distinguished Senator from Massachusetts as said with regard to the dearth of cases in some of these States under State law. Under Federal law there will be a proliferation. I guarantee it. I do not think anybody doubts it. I think we have seen it and we will see it in the future if this bill passes.

Mr. KENNEDY. Mr. President, I will take the time. My colleagues are not here to respond in detail. But, with all respect to my friend, he has misstated the law and then differed with the misstatement. I will come back to that at a different time.

How much time does the Senator care for?

Mr. KERREY. Perhaps 5 minutes?

Mr. KENNEDY. I yield 8 minutes.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Nebraska is recognized for 8 minutes.

Mr. KERREY. Mr. President, it seems to me, for Members who are trying to decide on this piece of legislation, the Employment Nondiscrimination Act, there are really three questions that need to be asked and answered. The first is: Should the Federal Government intervene and preempt State laws? That really leads to the question: Do you support the underlying bill, the Defense of Marriage Act? I do not support the underlying bill, the Defense of Marriage Act, for a number of reasons including the fact it is the first time the Federal Government will be intervening, preempting State laws on family matters. Divorce, child support, all sorts of other things will now be opened up and legitimate objects of concern for new Federal legislation.

But for those who have answered that first question yes, then this amendment is, it seems to me, an appropriate remedy to 41 States that currently continue to permit discrimination on the basis of sexual orientation. So that is question No. 1: Do you think the Federal Government should intervene? If you support DOMA you already support intervention. You already support an act of intervention, which DOMA is. DOMA preempts State laws. So does ENDA.

The second question is a very difficult one. I think—I am not sure of this—I think the origin of some of the differing views between the Senator from Massachusetts and the Senator from Utah—I am not certain of it—is: Do you believe sexual orientation is a trait, a characteristic, or do you think it is behavior? Do you think you are born with a particular sexual orientation or do you think you choose it, that you decide you want to be gay? Apparently, I guess from the letter written by Colin Powell, he believes race is benign but sexual orientation is not benign. That is the implication one gets from the letter from Colin Powell. I disagree with that. I would say sexual orientation is also benign. I do not believe that because I am heterosexual I am not benign. I do not think my ori-

entation is an indication of what I intend to do, at least in regard to what Colin Powell is suggesting. But it is a very important question.

There are some who believe that sexual orientation is chosen, it is a behavior. If you believe that, then you say it is the same thing as smoking or the same thing as drinking or other things and you do not think you are discriminating. You think it is legitimate. But the overwhelming number of people who have looked at this say sexual orientation is a trait. You do not choose it. You do not wake up one morning and say, "I think I will be homosexual"—or heterosexual, for that matter. It is a very important question. Because, it seems to me, if you believe it is a characteristic, that it is a trait, if you do believe that, as I do, if that is your conclusion—and Members need to ask themselves that—if you believe it is a characteristic, if you believe it is a trait, if you believe that is the way you are born, then you do have to treat it, at least in some ways, the same as race. It is a benign thing. You do not go out and decide this is what you are going to do with your life. So that is question No. 2. I answer the question that it is a trait, it is a characteristic, you are born this way and you orient that way as a consequence.

Question No. 3 is: Is this the right solution to discrimination? If you want the Federal Government to intervene—as I said, I think it is a mistake to be intervening, at least in the fashion we are doing with DOMA. If you want the Federal Government to intervene, if you believe it is a characteristic you are born with, the next question is: Do you think this is the right solution? I must say, I think the sponsors of this legislation, the drafters of this legislation, have done a very good job of trying to draft it in a narrow way so it does solve the problem, because it is a relatively small problem, I will say, Mr. President. I do think that there is discrimination against gays and lesbians in America today. But I do believe employers are increasingly saying it is not a threat at all, it is not a problem, it is a trait, and that gay and lesbian employees are not a threat to their business, they are not a threat to the morale of that company and so forth.

But, nonetheless, discrimination is occurring. So the drafters of this legislation have gone through and said ENDA does not require an employer to recruit or advertise job offers. ENDA expressly states no disparate impact cases may be made, meaning that discrimination cases cannot be made based on statistics alone. ENDA specifically prohibits quotas that would compel employers to meet percentages of hiring and provides exemptions for nonprofit religious organizations and the military, and ENDA does not require that companies pay benefits for domestic partners.

I think this legislation, again, if you support DOMA and you have already reached the conclusion that it is OK to intervene in State family matters; if

you believe homosexuality is a trait that one is born with, it orients just like you do if you are heterosexual, if you believe it is a trait; and if you are looking for some way, as the Senator from Utah is, to narrowly draw a law that will prevent this kind of discrimination, I think you can vote no other way than yes on what I consider to be a very carefully drawn piece of legislation, a very targeted piece of legislation, one that should not provoke a great number of lawsuits, that does, it seems to me, treat homosexuality different from race.

It does not provide disparate impact cases be filed. I think it is a reasonable piece of legislation. Especially for those who support the underlying bill, it seems to me an easy thing to support, an easy thing to vote "aye" on. I urge my colleagues to do so.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON addressed the Chair.

Mr. KENNEDY. I yield 8 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, first let me acknowledge the leadership of Senator KENNEDY. Senator KENNEDY has really been, in all these areas of human rights, a distinguished leader. I really appreciate that leadership.

I attended a meeting of the Illinois Society last night, people from Illinois who live in the Washington, DC, area. We started that meeting by saying the Pledge of Allegiance to the flag.

One of the things that has interested me is how rarely we do something like that anymore.

As part of that Pledge of Allegiance, we said, "one Nation, under God, indivisible \* \* \*". Some people want to make it "one Nation, under God, indivisible," except for African-Americans.

Some want to make it "one Nation, under God, indivisible," except for Hispanic-Americans.

Some people want to make it "one Nation, under God, indivisible," except for Asian-Americans.

Some people want to make it "one Nation, under God, indivisible," except for people with disabilities.

And some people want to make it "one Nation, under God, indivisible," except for gays.

I think there are a great many people who feel uncomfortable in this area. It is a word that Senator HATCH used.

Let me comment first on the Defense of Marriage Act and then on the legislation that Senator KENNEDY has introduced, of which I am pleased to be a co-sponsor.

The hate crimes bill that I introduced a few years ago, that is now law, has the FBI keeping track of hate crimes. The greatest number of hate crimes are against African-Americans, but if you look at the numbers of people proportionately, the greatest number of hate crimes are against gays in our society.

The last thing we need to do is to divide America more, and the Defense of Marriage Act does that.

A great many people do feel uncomfortable, and it is a hidden problem. I grew up in a family where my parents were active in what we then called race relations. I was not aware of this problem at all until I went into the Army.

When I went into the Army, I was assigned to the counterintelligence corps. One of our jobs was to screen people for classified material.

Let me add for those who argue about this today, people who were gay were drafted into the Army just as much as anybody who was not gay. For those who do not want to accept gays into the military, if you have a draft and you can be exempt if you are gay, I think we are going to have a lot of gays in our country, people who are going to list that.

But I became aware that people could be blackmailed very easily who were homosexual. I gradually became more aware of the problem.

I can remember in the House—the Presiding Officer may not have been here at that point—we had a House Member who used to introduce gay-bashing legislation, amendments, by the name of Bob Bauman, a Republican Member from Maryland. Then it turned out he was homosexual himself, but he felt compelled to do this.

The number of crimes not only against gays, but the number of suicides in this country is a very real problem.

I had an experience not too many months ago where a college classmate, a friend I had not seen for some years, stopped by, and as you do when you get together with a college classmate, we talked about our families. And he said, “We had a very emotional experience.” I asked him what it was. He said, “Our daughter told us she was lesbian.” In the course of it, he said, “My daughter told me, ‘You don’t think I would choose this.’ She said, ‘I was born this way.’”

Senator KERREY’s comments are apologies. We know now from scientific evidence that there is a genetic basis, at least among men—and the assumption is this is probably true for women, too—for homosexuality.

When I grew up, my father did not take me aside and say, “Paul, you have to be interested in girls.” He had to give me other warnings. But there are people who by orientation are interested in people in the same sex. Genetically, they are built that way.

If, in this Defense of Marriage Act, we start defining marriage, who is to stop the Senator from Massachusetts or the Senator from Kansas or the Senator from Washington from introducing Federal legislation on divorce, for adoptions or other areas? We simply should not be getting into this area.

Let me comment on Senator KENNEDY’s legislation. The statement Senator KENNEDY put up there that was

put out—I am going to mention the company’s name, Cracker Barrel—I have not been into a Cracker Barrel restaurant since that woman testified, and I am not going to go into one until we pass legislation like this. But her separation notice read—let me repeat it again—“This employee is being terminated due to a violation of company policy. The employee is gay.” That was a woman who worked as a cook, very low wages. When she testified before our committee, she was working part time cutting firewood.

What kind of a society are we building? We have to have opportunity for people. I can remember when we first started talking way back when I was in the State legislature, the Fair Employment Practices Commission, “Let’s not discriminate against African-Americans or Jewish-Americans and others,” and people said, “Oh.” They thought, “My job is going to be taken away.” And they were worried about a lot of things.

It turns out we passed that and we lifted the economy of this Nation because people were not discriminated against anymore. I notice that among the statements that were signed in terms of our practice, Bob Dole, on April 14, 1994, signed a statement: “The sexual orientation of an individual is not a consideration in the hiring, promoting or terminating of an employee in my congressional office.” What is good enough for Bob Dole ought to be good enough for the country.

The religious organizations—and I ask unanimous consent, Mr. President, to have printed in the RECORD the statement of the United Methodist Church, the National Council of the Churches of Christ, The American Jewish Community, and the Evangelical Lutheran Church in America.

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

GENERAL BOARD OF CHURCH AND SOCIETY OF THE UNITED METHODIST CHURCH,

*Washington, DC, September 3, 1996.*

DEAR SENATOR: On behalf of the General Board of Church and Society, the social justice advocacy agency of the 9.5 million member United Methodist Church, I strongly urge you support the Employment Non-Discrimination Act (S. 932) (ENDA) introduced by Sen. John Chaffee (R-RI) and Sen. Ted Kennedy (D-MA).

The Senate may soon vote on ENDA as an amendment to the Defense of Marriage Act (DOMA). Though the United Methodist Church does not presently have an official position on DOMA, The General Board of Church and Society has consistently and very strongly endorsed the passage of the Employment Non-Discrimination Act into law since its introduction in the U.S. Senate.

The Social Principles, the official policy doctrine of the United Methodist Church states, “Homosexual persons, no less than heterosexual persons are individuals of sacred worth . . . Certain basic human rights and civil liberties are due all persons. We are committed to support those rights and liberties for homosexual persons. We see a clear issue of simple justice in protecting their rightful claims where they have shared ma-

terial resources, pensions, guardian relationships, mutual powers of attorney, and other such lawful claims typically attendant to contractual relationships which involve shared contributions, responsibilities, and liabilities, and equal protection under law.”

If there is anything our agency can do to assist you in securing passage of the Employment Non-Discrimination Act into law, please don’t hesitate to call on me personally or Hilary Shelton the Program Director working on this issue at (202) 488-5658.

Sincerely yours,

THOM WHITE WOLF FASSETT,  
*General Secretary.*

NATIONAL COUNCIL OF THE CHURCHES

OF CHRIST IN THE U.S.A.,

*Washington, DC, August 23, 1996.*

DEAR SENATOR: On behalf of the National Council of Churches, I am writing to endorse S. 932, the Employment Non-Discrimination Act of 1996.

The National Council of the Churches of Christ in the U.S.A. is the preeminent expression in the United States of the movement for Christian unity. Its 33 Protestant and Orthodox member communions, to which 52 million people belong, work together and with other church bodies, to build a wide sense of Christian community and to deepen the experience of unity. Our position on this matter is based on policy approved by our General Assembly, whose 400 members are selected by our member communions in numbers proportionate to their size.

The National Council of Churches has always held that, as a child of God, every person is endowed with worth and dignity that human judgment cannot set aside. Therefore, every person is entitled to equal treatment under the law. Discrimination based on any criteria such as race, class, sex, creed, place of national origin, or sexual orientation is morally wrong.

Accordingly, the Council would urge you to support the prompt passage of the Employment Non-Discrimination Act as a manner to protect against such discrimination.

Sincerely,

(REV. DR.) ALBERT M. PENNYBACKER,  
*Associate General Secretary for Public Policy.*

THE AMERICAN JEWISH COMMITTEE,

*Washington, DC, July 22, 1996.*

DEAR SENATOR: While the American Jewish Committee has taken no position on the Defense of Marriage Act, AJC fully supports the Employment Non-Discrimination Act as an important protection of basic civil rights. We urge you to vote for ENDA as an amendment to the Defense of Marriage Act.

ENDA is simple justice. It ensures that employment decisions are based on one’s performance and abilities and not on perceptions of an employee’s sexual orientation. No “special rights” are created. ENDA simply extends the same legal protections from employment discrimination provided to other individuals who have historically been denied equal employment opportunities.

The protection of religious liberty is of central importance to the American Jewish Committee. ENDA’s broad exemption for religious organizations gives proper regard to this concern. No sectarian institution will be required to violate the religious precepts on which it was founded.

ENDA is a crucial protection of civil rights. We urge you to support the amendment that would incorporate ENDA into the Defense of Marriage Act.

Sincerely,

RICHARD T. FOLTIN,  
*Legislative Director and Counsel.*

EVANGELICAL LUTHERAN  
CHURCH IN AMERICA,  
Washington, DC, July 30, 1996.

DEAR SENATOR: The Evangelical Lutheran Church in America (ELCA) has committed itself to participate in God's mission by "advocating dignity and justice for all people" and "joining with others to remove obstacles of discrimination and indifference".

With these core commitments, the ELCA has affirmed its historical position of "strong opposition to all forms of verbal or physical harassment or assault of persons because of their sexual orientation and support for legislation, referendums, and policies to protect the civil rights of all persons, regardless of their sexual orientation, and to prohibit discrimination in housing, employment, and public services and accommodations."

The Employment Non-Discrimination Act (ENDA) would be one step toward fulfilling these commitments. ENDA would extend Federal employment discrimination protections currently provided based on race, religion, gender, national origin, age and disability to sexual orientation.

Therefore, the ELCA continues its support of the Employment Non-Discrimination Act and urges your support of this important initiative to extend employment discrimination protection to all people.

Sincerely,

KAY S. DOWHOWER,  
Director.

Mr. SIMON. We have to make sure that ours is a society that gives opportunity to everyone. I want every page here—I do not care what your sexual orientation or race or religion or what your background is—I want you to have every opportunity. I have four grandchildren. I want them to have every opportunity. That is what America is all about, and that is what this legislation is about.

We need an education. I still need an education. I am not as fully familiar—in the hearing that we had, I used the phrase "sexual preference," and I was told by leaders of the community they prefer the phrase "sexual orientation" because "preference" indicates choice. And so I am learning.

People were not made by God all the same. Some of us have brown hair, some of us red hair, some of us black hair, some blonde. Some were made with a different sexual orientation than most of us have, and we should not deny them employment opportunities. What happened to that cook in that Cracker Barrel restaurant should not happen to any American. That is what this legislation is all about, and I support it.

The PRESIDING OFFICER (Mr. GORTON). Who yields time?

Mrs. KASSEBAUM. Mr. President, I yield as much time as the Senator from Oklahoma would like to use.

Mr. NICKLES. Ten minutes.

Mrs. KASSEBAUM. I yield 10 minutes to the Senator from Oklahoma.

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

Mr. NICKLES. First, I wish to compliment the Senator from Kansas for her statement and also Senator HATCH for his statement as well.

Mr. President, No. 1, I did not expect this debate this morning. This debate

is the result of the unanimous-consent agreement that was entered into last night. I supported that agreement. So we will be voting on this bill and we will be voting on the Defense of Marriage Act on Tuesday. So at least we will be able to bring up and dispose of two pieces of legislation.

I believe the legislation that we are debating this morning called ENDA, Employment Nondiscrimination Act, introduced by Senator KENNEDY and others, is a very significant piece of legislation. I happen to disagree with it. I happen to think it is a very dangerous piece of legislation. I am pleased it is not going to be offered as an amendment to the Defense of Marriage Act. I perceived it as a killer amendment. In all likelihood, if it had been adopted on the Defense of Marriage Act, it would have killed it. So I viewed it as an attempt to defeat the Defense of Marriage Act. So I am pleased that we are at least reviewing it or considering it separately.

Mr. President, this is not an easy subject to talk about, not an easy subject for most of us, because we do not talk about it very often. We are talking about amending the Civil Rights Act and adding sexual orientation to the list of items now under the Civil Rights Act which have protection.

We state under the Civil Rights Act there should be no discrimination on account of gender, on account of race, on account of your ethnic background, or disabilities or age or religion, and now if this amendment becomes law, we would add sexual orientation, and "sexual orientation" would be defined as homosexuality and bisexuality and heterosexuality. It actually would elevate homosexuality and bisexuality as a protected class under the Civil Rights Act.

Many, many people across America, because of their backgrounds—and maybe that background is a Jewish background or Christian background or Muslim background—have religious beliefs that homosexuality or bisexuality or promiscuity is immoral. To elevate that type of conduct into a protected status or class under the Civil Rights Act I think would be offensive. What would be the result?

Senator KASSEBAUM and Senator HATCH mentioned the fact that it would certainly bring about a lot of litigation. There is no question about that. A lot of individuals and a lot of firms would be sued based on sexual orientation claims if this bill becomes law.

There are exemptions under the bill, and appropriately so. Do we really want to say that people should be sued because they have religious convictions that go back to the Bible, or go back to their Muslim tenets or beliefs or their Koran, all of which say that this behavior is wrong? If they believe that in their hearts, and they do not want to have that conduct in their office or in their place of employment, should they be sued? Now, we are talk-

ing about real life situations. I do not doubt that there has been some discrimination, unwarranted, in many cases. I do not find that right.

I heard somebody say nine States, including the State of Massachusetts, have laws that prohibit discrimination on account of sexual orientation. Fine, I do not care if each and every State does, if that is that State's choice. If 9 States have done it that means 41 States have not. Maybe those 41 States will. They have the right to enact such laws. I would not step in their way one iota if the State wishes to make that decision. They can reverse it if they do not like that decision. That is their right. To elevate discrimination on account of sexual orientation and make it national and to make it a protected class under the Civil Rights Act I think would be a serious, serious mistake and one that we should not do.

What would be the result? I mentioned the litigation. What would be the practical result? I think if some organizations said they did not want to have openly gay or homosexual people as role models or mentors for young people—Boy Scouts come to mind; maybe other organizations, churches, then they should not have to hire them. I guess there is an exemption for churches and religious organizations that are nonprofit. Where do you draw the line at a church? If you leave church on a Sunday morning at noon, does that mean you are no longer affiliated with the church? A lot of us think of church as a body of believers and we do not believe it is just a building you attend once a week. If you have heartfelt convictions and beliefs should you, once you step out of church, be forced to hire someone whose sexual orientation offends you? What about somebody that believes they are part of a body of followers of Christ, or maybe of Jewish belief, and tenets that they believe in, 7 days a week 24 hours a day? Do you have to leave those beliefs at home? Do you have to check those beliefs at the door when you leave church?

There is an exemption for churches. What about a Christian bookstore, for example? A Christian bookstore for profit does not fall under the exemption. So here you have a business with very strongly felt convictions, but it is a for-profit Christian bookstore, Jewish bookstore, or Muslim bookstore they would be liable to be sued if they did not hire somebody who was openly gay. That may be very reprehensible to them and their basic beliefs, yet they can be sued.

What about the Boy Scouts? They have had a policy not to have homosexual Scoutmasters and they have been sued—they have been sued even without having sexual orientation included under the Civil Rights Act, and yet they are in court and have been in court, have spent hundreds of thousands of dollars trying to maintain their policy. They do not want to have openly gay homosexuals as their

Scoutmasters and leaders and employees in their organization. Now, sexual orientation is not even included in the Civil Rights Act and yet they still have been sued. They have spent hundreds of thousands of dollars defending their right to maintain their policy. Under at least the original Kennedy legislation that was introduced that policy would have to be changed or they would be sued.

Somebody informed me there was an amendment added in the last couple of days to try to correct this. I am not sure it would correct this. They were being sued before consideration of this legislation. My guess is they will be sued after this legislation, should it become law. I am hopeful and optimistic it will not become law.

I ask unanimous consent for an additional 10 minutes.

Mrs. KASSEBAUM. I am happy to yield 10 minutes.

Mr. NICKLES. What about a public school? They have contact with kids. They are not exempt under this legislation, as I understand it.

Say you have kids, and a homosexual or bisexual grade school teacher, maybe that is fine in some schools in some districts, because it is very acceptable, but in some areas it might not be.

Take, for example, a school board in rural Alabama finds out their fifth grade teacher is an open homosexual, or it is well-known that this person is a homosexual, he admitted it to the school board. They inquired and he said that he has had relations with lots of people. Maybe he is bisexual. This bill covers or protects bisexuals. Maybe he had relations not only with his wife but has several boyfriends or something like that. The school board says that is not really the type of leadership mentor that they want to have in a school official, coach, or somebody who is working with kids. So that is not acceptable behavior.

Under this bill, as I see it, the school board could be sued. Maybe just the threat of the suit would prohibit the school board from taking such action. Do we really want to do that? Do we want to interfere with the school boards in rural Alabama, West Virginia, Montana, or Iowa? Do we really want to mandate it? If those States want to do it, more power to them, let them do it. But do we really want to give the level of protection, special protection, under the Civil Rights Act—I do not think that is wise—and open that school board up to unbelievable litigation or open that Christian bookstore up to litigation and say, "Sorry, you did not fall under the exemptions. You are a for-profit Christian bookstore." Therefore, tough luck if you do not hire this person even though they might be wearing a T-shirt that says "I am gay and proud of it and let's make love," you would have to hire them. You are subjected to unbelievable litigation, punitive damages—not just compensatory damage, but punitive damages.

Then I heard my colleagues say this bill has no quotas. I read that section. It says there is no quotas. Wait a minute. Under the Civil Rights Act, the EEOC is charged with enforcing it and they are able to collect data. Senator HATCH mentioned this and he is far more knowledgeable than I. They have to collect data. If someone files a suit against a company and says, "You did not hire me because I was openly gay," and that company says, "Well, that was not the real reason why we did not, and we have hired gays in the past." And they say, "Well, how do I prove it?" You have to prove it. How do you prove it? You have to survey your employees to make sure you can stand up on your argument and say we do not have that policy, we have never discriminated against gays. The employer has never asked anybody but all of a sudden now somebody came in that was openly gay and you did not hire them and they say that is the reason why you did not hire them, so for your defense you have to prove that you have hired gays in the past.

Now you have to survey your employees. You never had to do that before. Now you have to survey every employee. What is your sexual orientation? None of your business. Employers do not want to ask that question. I have employed a lot of people. I have never asked that question, would not dream of asking that question. Yet now for a defense to prove that you were not discriminating if this should become law, to prove you were not discriminating on account of sexual orientation, you are going to have to defend yourself. So now you have to prove that you have hired some homosexuals or bisexuals even though you did not even know it, it was not your business, you did not care, you do not want to get involved in their private lives. But to protect yourself from this litigation you would have to make those decisions.

Let me give you a couple of other examples. In my days as an employer, I had a sales force. Sales people spend a lot of time together. They go on the road together. They travel together. They go to conventions together. They spend weeks together. What if an employer found out this person is a good salesman, has a good reputation, but he openly admits that he is bisexual. Now, that may be fine in some sales organizations but in some other sales organizations it will not be very popular. It will not be very popular. It will not be very popular with some of the spouses, maybe male and female. If an employer says, "Well, no, that person really will not fit into our organization. We do not think we should have promiscuous people in our sales team because of the time spent away from home, the time and travel, so I think that as a policy we will not do that."

You say, wait a minute, this bill does not protect that. Wait a minute, this bill protects homosexuals and bisexuals. The very definition of bisex-

ual means you are promiscuous. You are having sex with males and females. Bisexuals are protected under this bill. That employer, if you decided not to hire that person because they were bisexual, you are on very thin ice. You are going to be sued, and not only sued and required to give the person their job back, but sued for punitive damages as well—unbelievable litigation expenses. You could go on. I have a daughter that is a cheerleader. She attends cheerleading camp. Now, I thought, wait a minute, that is not school and it is for profit, they make money off of it. I actually have a daughter that worked for such a camp, the National Cheerleaders Association, this summer. A bunch of youngsters worked with a bunch of high school kids. These kids and their teachers and coaches are mentors. Now, maybe the person who owns this company is a Christian, maybe they are not, or maybe they are Jewish. Maybe they have religious beliefs that they would rather not hire openly gay, lesbian, or bisexual people as coaches or leaders. Fine. If they have that policy, that personal conviction from their religious background or their beliefs, and they don't want to hire somebody who is openly gay or bisexual, or lesbian, so they don't hire them, then somebody might say, "Wait a minute, you didn't hire me because I was bisexual; therefore, I am going to sue you."

What about the individuals sending those kids to that camp? I think they would have a very legitimate complaint. That employer should not be forced to hire somebody that is bisexual if they feel like they don't want to, and if it would interfere with the role model or image they are trying to portray in their company.

What about a day care center? What about that? If somebody says, well—I guess if it is a nonprofit religious-affiliated day care center, like the First Baptist Day Care Center in South Dakota, they will be exempt. But what if you have one that makes money and they are for profit, but maybe they have a religious affiliation and want to have a real positive family image, and they really don't want to have activist gay, lesbian, or bisexual teachers or employees teaching the kids? I am afraid, under this legislation, they could be sued. As a matter of fact, they could be sued. People need to know that.

I know a lot of people, when they think of gays and lesbians, they think of individuals they know that are monogamous, and they are great employees, super people to work with, very productive. I know that. But there are also a lot of very active people, who work to pursue an activist agenda, and they would like to use the courts, as they have in many ways, to pursue their agenda. That is the reason why they are suing the Boy Scouts. That is the reason why they have sued in the State of Hawaii. We will talk about



that on Tuesday, to try to define marriage, and about allowing same-sex partners.

So there are many people who are very active who use the courts and, in some cases, abuse the courts, to pursue a very radical agenda.

I am afraid this legislation, if we add sexual orientation to the Civil Rights Act, will help them a lot. We have elevated what many, many people believe, because of their religious convictions in their heart, to be immoral acts—we will have elevated that to a protected special status under the Civil Rights Act if we add sexual orientation defined as homosexual, heterosexual, and bisexual. If we add that to the Civil Rights Act, Mr. President, I think we are making a serious mistake. I urge my colleagues to vote no on this amendment on Tuesday.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time could I have?

The PRESIDING OFFICER. The Senator from Massachusetts has 27 minutes 17 seconds.

Mrs. FEINSTEIN. Would it be possible to have about 10 minutes?

Mr. KENNEDY. Yes. I yield 10 minutes to the Senator from California.

Mrs. FEINSTEIN. I thank the Senator from Massachusetts and the Chair.

Mr. President, I rise in strong support of this legislation. It might be useful for this body to know a little bit of my background with this kind of legislation.

Twenty-five years ago, I was a new president of the San Francisco Board of Supervisors, and I drafted legislation to amend the human rights ordinance of that city and county to prohibit discrimination in both housing and employment on the basis of sexual orientation. To my knowledge, it was the first such legislation ever introduced in a major city and county anywhere in the United States.

Well, I served as supervisor for 9 years, and then as mayor for 9 years. During that period of time, I never, ever had a single complaint about that legislation—not one. It was the first in the Nation, and it was difficult to pass; people did not understand it. Some said, "Is this special treatment?" Answer: No. "Does this convey some additional right that no one else has?" Answer: No. It's pure and simple, as this legislation is pure and simple.

What this legislation says is that you cannot be denied employment because you may be gay or straight. It does not say you are protected against inappropriate conduct in any way, shape, or form. I think this is a key point. Is it inappropriate conduct for anybody to be kissing on their job as a waiter or waitress? The answer is, yes, it is inappropriate conduct, regardless of whether they are gay or straight. The same thing goes for clothing. If it is inappropriate to wear certain things in the workplace, this is true whether you are gay or whether you are straight.

So a lot of the hobgoblins that are expressed by the other side that this will open the world to all kinds of inappropriate activity, in my view, based on 25 years of watching a piece of legislation that I authored, which was passed, which I presided over as mayor of the city, is simply not correct.

There was not one complaint from any major corporation or minor corporation, major business or minor business, major employer or minor employer in the city and county of San Francisco, to my knowledge, in the last 25 years. These are major corporations like Bechtel, major corporations like McKesson, major corporations like Wells Fargo Bank, major corporations like the Bank of America, who have operated with this legislation intact in the city and county of San Francisco for the past 25 years, without a problem.

I believe that will be true for the rest of the Nation. This bestows no quota, no special privilege, no exemption from any law or rule or code of conduct anywhere. It simply says, based on the fact that you may be gay or lesbian, you cannot be denied employment.

But act inappropriately and it all changes. Do something that is improper conduct, and it all changes. But just because of who you may be, you simply cannot be denied employment. It seems to me that that is a pretty basic right that everybody has, regardless of their race, their religion, their creed, their color. Just because I am black, don't deny me employment. Just because I am Hispanic, don't deny me employment. But if I act inappropriately for the job, if I dress inappropriately for the job, or if I, in any way, create problems, then it is a different story. But not just because of who I am, because I can't help who I am. That is the message of this legislation.

Let me give you two cases, two specific cases. William Ballou began working as a waiter in a Fremont, CA, restaurant in September 1991. Within 6 months, he had received both a promotion to assistant manager and a glowing letter of recommendation by the franchise owners of the restaurant.

But other waiters, some bartenders, and the restaurant manager frequently made antigay remarks, even urging servers to rush gay patrons, because, they were told, "this is a family restaurant." After one particularly hurtful confrontation with the manager, Ballou told the franchise owners about this harassment. He was then fired due to "personality conflicts." We see this pattern of harassment followed by firing all too often.

Sometimes the discriminatory firing is even more blatant. One woman, Tracie Cleverly, worked for many months at a Salt Lake City franchise of a well-known restaurant chain. Her coworkers and manager were aware that she was a lesbian, but this didn't affect her prospects or her work environment. She received good work reviews, and her manager soon started her in training to be a supervisor.

Unfortunately, her understanding manager resigned, and a new person came to work his first day with a list of people to be fired, including all of the gay and lesbian workers in the restaurant. And he simply said, "I don't want these kinds of people working here."

We are not asking for special rights in this legislation. All we are saying is that simply because someone may be gay or straight, no more than someone may be black or Catholic or Jewish or Spanish or American Indian, or anything else, just because of who they are they should not be discriminated against.

I have listened to some of the comments on this floor about inappropriate action and special privilege, and none of this is encompassed in this legislation. It is clean, it is pure, and it is simple. And it is just directed at persons themselves. Once that person begins to do certain things, it may be a different story. Inappropriate conduct, once again, is inappropriate conduct, whether you be gay or straight. I think that is a very important point to get across.

So I would like to commend the Senator from Massachusetts. It is my belief that this freestanding bill provides the same remedies permitted under title VII of the Civil Rights Act and the Americans With Disabilities Act.

This is a big country. It is a democratic country. I think every Member of this body believes that no one should be prevented from obtaining a job because of their race, creed, color, sex, and I hope sexual orientation will be added to that.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. Mr. President, I would like to yield 15 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Thank you, very much, Mr. President, and I thank the Senator from Kansas for the opportunity to speak on this important issue. It is an important issue, and I think her remarks earlier about the legal difficulties that are encountered whenever you have the kind of potential for punitive damages and have the kind of framework that would allow legal challenges on decisions made by business people—those were very important points on this matter. I commend her for making those points.

I also want to commend Senator HATCH for his important discussion of these issues, and Senator NICKLES who raised components of consideration here which I think have yet to be raised and ought to be raised.

I would like to make a few observations about what it is we do when we seek to enact legislation like this and the kind of signals we send and what the public interest is in terms of this kind of legislation.

First of all, I have to say that I have no intention nor desire to inflict any

kind of burden or difficulty upon individuals in our culture who are homosexuals. I have worked with homosexuals in various responsibilities. When I served as Governor of the State of Missouri I learned that several of the individuals in the administration were homosexuals and had done outstanding work. Unfortunately, several of those individuals with whom I worked and whom I respected met a very early death, in part as a result of the practice, I believe, of their lifestyle, and it is a tragedy. My sympathy has always been for them and to their families. In one case we had to transfer a worker to be more proximate to medical attention and care because of the challenges that he faced.

So it is not a matter in terms of my own situation of wanting to increase the burden or otherwise make difficult the lives of individuals who have a homosexual lifestyle. As a matter of fact, that is already a real challenge.

I want to point out that in everything we do in government we teach. We send signals. We say what is good and what is bad. We encourage some things. We discourage others. President Clinton has decided to send a signal about cigarette smoking. He has basically said that, because smoking cigarettes can curtail your life expectancy anywhere between 2.1 and 12.2 years, that he is going to be aggressive in communicating to this culture that you should not start smoking. It is bad for you. It will hurt you. It will shorten your lifespan. There are some of us in this Chamber who would disagree with the way in which the President is trying to send that signal. Some of us would question whether or not we ought to assign to the FDA—the Food and Drug Administration, an agency which is already overburdened and which is struggling to do minimally acceptably its current task—the substantial new task of regulating tobacco. But I think all of us agree that the right signal is that smoking is bad for you and that it is injurious to your health. Smoking is obviously a choice. But we are trying to send a signal about what we believe and that this Government does not want to encourage you to smoke.

I believe when we consider enacting legislation that gives special standing to a particular category of conduct, that sends a signal that says that that conduct is to be elevated, it is to be approved, it is somehow to have special privilege, then we have to be careful about what we are doing.

There is a debate about whether or not people who are homosexuals are born that way or are genetically programmed that way or that it perhaps is a conduct which they acquire or which they develop. Frankly, I cannot say for sure from a personal perspective that there is no way that there could be individuals who are genetically predisposed. I can't make that determination. I do know that there are thousands of former homosexuals, individ-

uals who once were engaged in a homosexual lifestyle, who have changed that lifestyle and have repudiated it and find themselves to be engaged in heterosexual lifestyles.

So it is clear to me that, while there may be a genetic base for the activity in some respects, it is clear that it is an activity of choice in other respects and that it is a choice which can be made and unmade.

I think when we as a government are signaling an approval, or an elevation, of a lifestyle, we have to ask ourselves to what extent are we suggesting to individuals in the culture that they ought to adopt it.

I am worried about youngsters in our society. I think there are times when young men are unsure about themselves when they are in transition, when they have identified perhaps more with their mothers than with their fathers, and they move from boyhood to manhood. Those are critical times when role models are very important. I think Senator NICKLES was on target when he said that we have to be careful of who we have in the Boy Scouts. I commend the sponsors of this legislation for exempting the Boy Scouts. The sponsors also exempt the military, because I think they recognize the fact that there are sensitive positions where we understand that we wouldn't be confident in having this elevated standing for homosexuals in regard to positions in the military. Colin Powell made it clear when he stood by the gay ban in the military. He said, "Skin color is a benign, non-behavioral characteristic." He said that to distinguish it from homosexual activity. "Sexual orientation is perhaps the most profound of human behavioral characteristics." It is a matter of conduct. Sex is not a matter of conduct. It is a matter of configuration. It is the way in which we are made. Sexual orientation, according to Colin Powell, is a matter of conduct.

I think we ought to be careful of what we are supporting as a government. We should be wary of telling young people that you will have a higher standing, you will have a greater durability on the job, it will be more difficult to fire you, you are likely to have a cause of action if someone fails to hire you, you can sue someone for failing to hire you if you can allege that you are a homosexual—you will not be able to do that, if you have ordinary sexual orientation.

Senator NICKLES, in talking about young people, stated something which I believe; that is, in hiring schoolteachers, or camp counselors, or those who deal with young people, you never just hire a teacher.

You are always hiring more than a teacher. You are hiring a role model. I cannot think of a single teacher in my past who was simply a teacher to me. Whether he or she liked it or not, that teacher was a role model. And I think those who operate organizations that have situations like that are appro-

priately exempted in this legislation. But this exemption should be much broader in this bill. As a matter of fact, to deprive employers of the ability to make those kinds of judgments—as this bill does—in my view, is unwise. I think this bill sends a signal that this is an elevated status. I do not think that is the right signal to send to the next generation.

We all know that in practice, dismissal of individuals who are on the protected class lists in the civil rights laws is very, very difficult.

I believe we ought to have a civil rights law to protect against discrimination based upon race and sex. But I remember a situation when I was Governor of Missouri in which one man operating a laundry fired a black woman from the laundry. She was one of seven black women working in the laundry. She was replaced by a black woman. But she sued alleging that she was fired because she was discriminated against on the basis of both race and sex. I remember that the operator of that particular laundry spent a substantial amount of money defending against that kind of suit.

The truth of the matter is that the establishment of protected classes makes much more difficult the ability of anyone to even use good judgment in hiring and firing because there is always this threat of litigation. The threat of litigation here is not inconsequential. It is not minimal. It is not small. When you get to the place of offering the potential for punitive damages for violation of these kinds of items, you get into astronomical figures.

Shell Oil Co. had a company policy that said it would only use on-the-job activities as the basis for hiring and firing. That is kind of what this law really sets up, saying, we will not allow sexual orientation to be used as the basis for that. Shell found that one of its employees was using the company copier to produce and copy a flier advertising a safe sex party for homosexual men. It said that is not what we want our company to be standing for, that is not what we want to be doing. It fired the individual. A California court fined Shell Oil \$5.3 million for dismissing the executive. It provided that kind of a penalty.

This is the kind of intimidation that occurs, especially when you are in the universe of the macro damages that we frequently see in litigation these days.

This is not the kind of thing we want to invite into our businesses. Senator NICKLES has said very clearly it is not the kind of thing we want to invite into camps for children, into the schools. This law provides a distinction, saying that if schools are religious schools or nonprofit schools, they do not have to abide by it. I think that is right. They understand that there are many legitimate objectives of schools that would be impaired substantially by this. But is the objective of a profitmaking school different than

a nonprofit school? Are the children who go to the school that makes a profit providing the services any less to be protected than the children who go to a school that is nonprofit?

Are the role model considerations any different if the organization makes a profit than if the organization does not make a profit?

If it is my child, do I somehow feel differently because the executive director of the school is a nonprofit guy earning \$100,000 a year driving a nonprofit-provided vehicle, BMW, or a fledgling profit-seeking institution where the guy is barely eking out a living for his family and he is driving a Chevy?

The big distinction in the legislation is one of a profitmaking institution and one a nonprofit institution. For Heaven's sake, I do not care whether they are making a profit. What I care about is what is happening in the outcome. If it is a school that is dealing with young people, if there is a legitimate reason to say that the Boy Scouts should not have to abide by this and the nonprofits should not have to abide by this, why do we impose it on the rest of the world?

If there is a legitimate reason why the U.S. military in the national interest is exempted from this, why is it that it needs to be imposed on the rest of the world?

If it is a legitimate reason to protect the individuals who have the right resources and can send their kids to a nonprofit private school from this proposed law, why is it that the public schools cannot have these same kinds of opportunities to say that we want to send the right signals; we want to hire more than a teacher; we want to hire a role model, recognizing that there may be some who at a tender age would be directed by the role modeling that takes place by teachers and by leaders in scouts and informal organizations and activities. Maybe we would just like to say that even people in the public sector ought to be able to have that right, the school district ought to be able to have that right. It is not as if these things do not happen. And there are things that you wonder about.

Recently, here in the northern Virginia area, there was the young boys' gym teacher who had been making the gay pornographic videos and was discovered to be leading a dual life. On the west coast he was the gay porno video star; on the east coast he was the gym teacher. That is not activity that is perhaps relevant or particularly associated with his school duties, but if my children were in the school I would want to think we would have the opportunity to look carefully at that and perhaps make a judgment that this was not the right kind of role model.

In all that we do in Government, we teach. I believe when we say that something is to be preferred—

The PRESIDING OFFICER. The 15 minutes of the Senator from Missouri have expired.

Mrs. KASSEBAUM. I would be happy to yield 5 more minutes.

Mr. ASHCROFT. I do not think I need but about 2 minutes to close.

Mrs. KASSEBAUM. Whatever time.

Mr. ASHCROFT. I just believe there are areas in this bill that recognize there are legitimate concerns and they throw out a bone here and a bone there—a bone to the Boy Scouts if the Boy Scouts are covered. I am not sure they are. A bone to the religious schools or to the not-for-profit schools but not to the other schools, a bone to the Armed Forces because I guess we do not want to impair the defense of the country but maybe we are willing to put into jeopardy the future of the country. In my view, it is clear that the signal we send in this bill is the wrong signal. It contains seeds of real instability and inappropriate activity, seeds of litigation which could grow way out of hand and send the wrong signals to young people and provide a special standing and class—not based upon existence and construction but upon conduct. Not based upon sex but upon sexual activity.

I thank the Senator from Kansas for the time. I yield the floor.

The PRESIDING OFFICER (Mr. KYL). Who yields time?

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise in support of S. 2056, the Employment Nondiscrimination Act. It has been noted on the floor that we are in an honorable succession here, from legislation that has very much defined this period in American national life. We begin with the Civil Rights Act of 1964, in which the prohibition against discrimination based on color was extended to include discrimination based on sex. That was part of the calculation of opponents of the legislation. In the end, both prevailed, with large consequences to our society.

I should think each of us, or almost all of us in the Senate, have been to one or the other of the national conventions of our parties, and have seen an extraordinary range of persons, men and women, black and white, Hispanic and thus-and-so. I do not know how many would recall how strikingly different this would have been, say 40 years ago, when I had the opportunity to be part of the Democratic Convention in the city of Chicago. Seeing photographs and films of it today, you see a different world. It has been changed, and for the better, and agreeably, by legislation enacted on this Senate floor.

The time to extend the prohibition against discrimination based on sexual preference, as the usage is, is surely at hand. For my part, I introduced legislation that would address this matter in terms of employment in 1979. Then, in 1985, this legislation was first introduced. I was a cosponsor. It could scarcely have been said to come about precipitously. It is 11 years, if you like;

17 years, if you prefer, that we have been discussing it.

The simple proposition before us is that no person should be denied civil rights because of his or her affectional or sexual orientation. Federal guarantees against discriminatory practices in employment, housing, public accommodations, and federally funded programs should extend to all citizens. At least, that is how I read the due process clauses of the 5th and 14th amendments, the equal protection clause of the 14th amendment, and the right to privacy implied in the 4th and 5th amendments.

The legislation does not condone any particular course of conduct. It simply affords all American citizens equal protection under the law. It is narrowly drafted to prevent an explosion of litigation. The bill would not apply to the U.S. Armed Forces or to religious organizations. The bill would not affect marriage, adoption, or child custody laws, all of which are determined individually by the States. And the legislation makes clear that preferential treatment and quotas are prohibited, and that no claims will be permitted based upon underrepresentation in a particular work force.

That randomness is to be expected in our society and encouraged, in the sense that people seek what they feel to be the best outlet for their opportunities. It is discrimination that we oppose, which we have legislated against for a generation now. And, as we look about us, we look at the consequences: a degree of acceptance such that you would never know the resistance of a generation ago. You would never know how fierce the opposition was to that which we could not imagine doing without today.

I think this will be the case with the legislation before us. I am proud to cosponsor it.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. How much time do we have?

The PRESIDING OFFICER. The Senator has 12 minutes and 40 seconds remaining.

Mr. KENNEDY. Then I yield 6 minutes to the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair and I thank my friend from Massachusetts.

Mr. President, If I might begin with what may seem like an elevated, but I think is an accurate, vision of what our work here is as lawmakers, I was trained to believe the law is the expression of our values. It is the way we take our values as a society and put them into a code. It is, in some sense, an expression of our aspirations, our hopes for ourselves and our society. Because we are imperfect beings and we are an imperfect society, we do not always live up to our best aspirations as expressed in the law for ourselves.

In that same sense, the fundamental principles of our country, of our democracy, expressed in the Constitution, were a series of values that over

our history we have realized. We were far from perfect from the beginning, we are far from perfect today, we will be far from perfect even if we pass the nondiscrimination act, which I rise to support, but in each case we have tried to make real, according to current circumstances, the values expressed in our Constitution.

Here, today, I think we are taking—if we can bring together the support for this measure—a next logical step in extending the guarantee of nondiscrimination in employment to people, based on their sexual orientation.

I go back to the source of all our rights as expressed in the Declaration of Independence. We did not base these rights on any political philosopher's thinking. We did not base them on the report of some committee constituted for the formulation of basic rights. We did not base them, certainly, on any piece of legislation. It says right there at the outset that all of us are given these rights—are endowed with these rights by our Creator: The rights to life, liberty, and the pursuit of happiness. Over the 220 years of our history we have come to extend that further and further, appropriately, to groups that were not included at the outset: People of color, women, et cetera, et cetera.

What I want to suggest today is that those who are homosexual are also God's children. I say to my colleagues who may have strong personal feelings about this, one does not have to accept homosexuality, one does not even have to accept its morality, if I can speak in very direct terms, to support this legislation. Going back to the source of all our rights in this country, one simply has to acknowledge that those who are homosexual are also God's children and deserve to be protected from unfairness in our society, particularly from unfairness and discrimination based on sexual orientation in the workplace.

Because what is the driving impulse of this country, that brought my grandparents here, brought so many here? Yes, it was religious freedom, but it was the basic promise that, in America, if you play by the rules and work hard, there is no limit to what you can achieve. That is what title VII is all about. That is what the antidiscrimination in employment laws are all about.

What this measure says is very simple but very profound, and in my opinion goes to the heart of what America is about. If you are homosexual and you work hard and play by the rules, you cannot be discriminated against in hiring, in the status of your employment, in the level of your compensation, in promotion. To me, that seems like a statement of a basic American mainstream value of fairness.

This is now a separate measure before us, a freestanding bill. Originally, though I cosponsored it as a freestanding bill, we were going to introduce it as an amendment to the Defense of Marriage Act. I intend to sup-

port the Defense of Marriage Act because I think that affirms another basic American mainstream value, which is marriage as an institution. The traditional, time-tested vision, occasionally battered but now being restored, hopefully, of marriage as an institution between a man and a woman, the best institution to raise children in our society. But I worry, even though I view the Defense of Marriage Act as an affirmative statement, that we may send the wrong message in adopting it, that it is motivated by antihomosexual bigotry. I think that perception is wrong, certainly among the great majority of my colleagues that I have talked to who are supporting DOMA.

The best way to make that clear is with another affirmative statement, and that is to adopt the Employment Nondiscrimination Act and say: Let us be fair. Let us say to everybody in our country that if you play by the rules, if you work hard, if you contribute to this society, you cannot be punished because of a private decision you have made about your sexual orientation.

I think this is a moment that is historic. Not just in that we are debating this measure on the floor. It is historic in that it embraces the best values that are part of American history.

I urge my colleagues to take a fresh look at this, to look at how limited it is, how much it excludes quotas, disparate impact, religious organizations. And in the fullness of their heart and in the fullness of their belief in the American dream, vote for the Employment Nondiscrimination Act.

I thank the Chair.

Mr. KERRY. Mr. President, I rise in strong support for the legislation offered by my friend and colleague, the senior Senator from Massachusetts. I am an original cosponsor of the Employment Nondiscrimination Act.

Mr. President, this Nation is in debt to the senior Senator from Massachusetts for his consistent and unwavering stance on expanding civil rights for all Americans. For decades, he has fought resolutely against all forms of discrimination and, for that, the Commonwealth of Massachusetts and this country are richer places. I share his conviction that, as public servants, we must do all we can to secure, ensure and uphold civil rights for all sectors of American society.

As any resident of Massachusetts knows, the entire Kennedy family has shaped the latter half of the 20th century with progressive public and social policy. This legacy is so profound in our State that we have all been touched by the generosity and vision of the Kennedy family.

Mr. President, when I was first sworn in as a U.S. Senator in 1985, I authored the gay and lesbian civil rights bill. At that time, only five other Senators would join me as cosponsors of that legislation. In the last session of Congress, I testified before the Armed Services Committee to lift the ban on gay men and lesbians serving in the military.

I agree with Senator KENNEDY that ENDA is a solution to a serious problem. I have heard stories from many Americans who have suffered discrimination in the workplace because of their sexual orientation. It is time for these Americans to have recourse against blatant discrimination, just as Americans who are fired on the basis of their religion, national origin, or gender. Massachusetts is one of the States which has recognized the problems of anti-gay and lesbian discrimination in the workplace and already has an ENDA-like law.

Mr. President, last year, I joined 65 of our colleagues in signing a pledge that I would not discriminate on the basis of sexual orientation in hiring, promotion and firing. Like the majority of our colleagues, signing this pledge came easy to me. I have always had openly gay and lesbian staff and they have served the people of Massachusetts with effective and committed distinction.

I urge our colleagues to live up to the pledge they signed and support this important legislation.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I believe I have 6 minutes left. I yield myself 5 minutes.

Mr. President, I want to address, albeit briefly, some of the points that have been raised over the course of the morning.

First of all, why ENDA should be a national law. The National Government has a duty to set national standards of fairness and equality. Not all matters are appropriate for Federal legislation, but over the past 35 years, we have recognized that the protection of civil rights is a basic Federal duty.

Americans are increasingly mobile. They move from State to State. They work for employers with offices in different States and frequently transfer from office to office, and they should be free from unjust discrimination as they travel across the country.

The Federal Government has a duty to protect interstate commerce, and this deals with employment. It does not tell anyone who to be friendly with, but it does say that with respect to employment, which is the heart of this legislation, gay Americans will be protected from overt, direct, and outrageous discrimination. That is it.

Mr. President, we have heard the discussions about the Boy Scouts and about religious organizations. Regarding the case dealing with the Boy Scouts, we are dealing with an individual Boy Scout who refused to pledge allegiance to God, and he was an atheist. That issue was brought to the courts and was decided by the courts that the Boy Scouts are a private organization. That young person lost the case.

This legislation follows what has been declared by the courts in terms of private organizations.

Another question arose regarding religious organizations, profit and non-profit, and whether this legislation should differentiate. We clearly draw the distinction between profit and non-profit, because we draw the distinction as we have in other civil rights laws in protecting religious liberty and religious rights.

The nonprofit business is generally considered to be one which is more directly associated with religious teachings and with religious doctrines. The for profit are more secular in nature. That has been the definition which has been defined by the IRS. It is the same with regard to this particular issue as well. This does not bring up a whole new set of questions.

But beyond all this, Mr. President, I want to conclude with the underlying issues that were brought up by those who have spoken out against this legislation this morning.

Basically, we heard what is going to be the message to the young people of this country. Our message is that you should not discriminate; you should not be part of bigotry in this Nation. That is the underlying theme of this legislation. We are talking about discrimination and bigotry.

This Nation has fought its way through on discrimination on bigotry, on race and gender, and disabilities, and we are saying we ought to be able to go to the next step with regard to gays and lesbians. That is the issue, not providing additional special privilege to a lifestyle. We are talking about discrimination on the basis of bigotry in our society.

Mr. President, I was around here not that long ago when we were making progress on eliminating discrimination. A number of years ago, when we were talking about knocking down the walls of discrimination on race, some said, "Well, blacks don't work hard." "Blacks are lazy." "Blacks aren't competent." "They're different." "Why do we need to provide any kind of protection for them?"

Well, we did. We do not even hear a dispute about that particular issue at this time.

Then we had the issue about protecting women. "Women are weak." "Women belong in the home." "Women are not smart enough." "Why should women be involved in athletics?"

We passed title IX, and we all celebrated when they got gold medals in basketball and softball. And so the success of our magnificent women Olympians, our gymnasts and others in these last Olympic Games makes us proud. No one is making those arguments anymore.

We have seen the discrimination on the basis of mental illness. Last night, we took an important step that we had been unwilling to take until now in saying, at least in part, that mental illness is not a stigma and, in many cases, it is as serious as cancer and heart disease.

It ought to be considered that way. We took a partial step last night. We

freed ourselves from the old clichés that there is something strange about people who have mental illness. We have done the same with people who have disabilities. We took steps to do it. We do not hear it today on the floor of the United States that those are now all mistakes. Now everybody agrees with those.

The PRESIDING OFFICER. The Senator has 1 more minute remaining, and the Senator from Kansas has 17½ minutes remaining.

Mr. KENNEDY. I ask for 5 minutes more.

Mrs. KASSEBAUM. I have no problem extending the time.

Mr. KENNEDY. I ask unanimous consent for 5 minutes on each side.

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

Mr. KENNEDY. Mr. President, now we have the stereotyping of gays and lesbians as child molesters; everyone who is gay can't wait to get their hands on a young child. And we are stereotyping it for one more time.

I thought we knew better than that. Some Members start out with the speeches, "Well, I know gays and lesbians, and they are wonderful people, but do we really want them around our children?"

We know we have laws out there with regard to molestation and about violating children, whether they are homosexual or heterosexual. We know, quite frankly, that in any State school system, they provide the same kind of dress codes for heterosexuals, gays or lesbians. Those will be enforced. We know if a gay man or lesbian appears in a pornographic movie, they will be fired, and so should a heterosexual.

Nonetheless, we hear those voices out here saying, "Well, there is something really off on all these individuals," again playing to the stereotype.

Mr. President, when we play to that, we are perpetuating bigotry. It is mean-spirited, it is a cheap shot—cheap shot.

But we are going to hear more of it during the continuing debate on anything to do with gays and lesbians or anyone with HIV. You are going to hear cheap shots, and those are in the spirit of intolerance, which divides America and creates an atmosphere that I believe encourages discrimination in this country. We are trying to free ourselves from discrimination and prejudice and bigotry and free ourselves from that kind of stereotyping which just adds to it.

That is basically what this is about. It is not about penalties. It is not about proliferation of court cases. It is not about statistics. We have addressed those issues, and we will provide additional information on Monday afternoon.

There is a more fundamental and basic question. It is whether we are going to be a nation that is going to be mean-spirited and stereotype our fellow citizens, or whether we are going to say that we are going to free our-

selves on the issue of discrimination in the workplace. That an individual who wants to work and can do the job is going to be able to hold that job and not be fired because they are gay. We must end the tradition of viciousness and discrimination directed toward gays and lesbians.

I hope we will pass this legislation. I thank the Chair.

Mr. HATCH. Mr. President, while the proponents of this bill have tried to minimize the potential impact of the bill, the fact is that, if it passes, the public and private employers of America subject to title VII will face the juggernaut of the Federal enforcement machinery. Anyone who contends that this bill will not result in a litigation boom is not paying attention to the caseloads at the EEOC and Department of Justice.

Let me say, once again, that equating opposition to this bill with opposition to civil rights measures for racial and ethnic minorities and women is totally unfair and serves only to divert attention away from the ramifications of the bill before us, which I described in my opening remarks. Moreover, it equates conduct with immutable characteristics. I think General Powell's comments, which I also cited earlier, on this equation are well worth considering.

Some proponents of this bill bundle off concern by parents and educators about role models in the schools as nothing more than bigotry. But no answer was voiced to the examples I mentioned earlier about a heterosexual male teacher publicly displaying physical affection for a spouse or girlfriend, and a homosexual teacher publicly displaying physical affection for a male partner. Should Congress force a school district to treat both teachers the same? The proponents of the bill say yes. I say no.

The supporters of the bill can offer bland assurances about whether the bill authorizes the EEOC to collect data on the sexual orientation of an employer's employees. They can claim the bill does not talk about statistics, but that is very misleading because the bill cross references title VII in so many ways. Section 11(a)(1) of the bill gives the EEOC "the same powers as [it] has to administer and enforce title VII of the Civil Rights Act of 1964. \* \* \*" Under title VII, the EEOC requires a number of employers to provide data on the race, ethnicity, and gender of employees. Therefore, this bill empowers the EEOC to require employers to provide data on the sexual orientation of employees, plain and simple. And, these statistics and evidence of so-called underrepresentation can be used in cases of intentional discrimination.

With respect to this bill's incorporation by reference of title VII's remedial scheme, including section 706(g) of title VII, see section 11(a)(5), I say again that the Supreme Court has allowed courts to impose preferences as remedies in some cases until title VII. The

courts will have the same power under this bill. The Attorney General's ability to enter into consent decrees which encompass preferences, along with the ability of private parties to do so, under title VII has been set forth in Supreme Court precedent, however much some of us may disagree with those decisions. This bill provides for the same results. [Sections 11(a)(4) and 11(b)].

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. I yield the Senator from Georgia 5 minutes.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I rise in opposition to the proposal before the Senate that is offered by the distinguished Senator from Massachusetts. I think he could find it in himself to concur that a person that might be opposed to this does not necessarily constitute mean-spiritedness. I think that my record as an employer and as a director of a Federal agency would suggest otherwise. And I do not think the discourse over the matter should bring itself to people being, for or against it, mean-spirited or vicious or whatever.

I believe this act sets the stage for an enormous expansion of Federal power over employers. The bill virtually guarantees an avalanche of costly litigation which could hurt small businesses most of all. The bill forbids discrimination on the basis of sexual orientation, which it defines to mean homosexuality, bisexuality, or heterosexuality, whether such orientation is real or perceived.

No one knows what this language means. This definition is brand new in the law. Lawyers are going to litigate over what constitutes homosexuality, or heterosexuality, bisexuality. The bill does not make these terms clear. And until they are clear, employers are in danger of being sued and face enormous claims for damages and Government interference in running their businesses.

The bill gives the EEOC, the Attorney General, and the Federal courts power to impose fines and issue decrees having to do with sexual orientation. Supporters say this bill will not lead to quotas for homosexuals. But we have heard this before. And we are in a national debate about affirmative action and quotas and the like.

The Supreme Court is having to struggle with these very issues at this moment. This bill is based on and tied to the provisions and remedies of title VII of the Civil Rights Act. It gives the courts the same powers in regard to discrimination on the basis of sexuality that they have in the area of race. Even laying aside the question of whether you can equate homosexuality with race or should, look at the results.

In the area of race discrimination, we have seen the imposition by courts and

bureaucrats of racial quotas. We will see the same thing if this bill passes, creating a special, protected class of citizens in America with quotas and even reverse discrimination based on sexuality. This bill makes sexuality an issue where it has never been an issue before.

Currently, most employers, gratefully, do not know about their employees' sexual orientation and do not care, and should not. This bill will put an end to that, disrupting the privacy of employees and employer-employee relations. At a time when we are, as a society, questioning the value and effects of affirmative action programs, we should not be creating a new special category of citizens, a special class of citizens that will be a new basis for a new round of quotas and litigation.

Mr. President, I want to refer to a specific case in particular. In Seattle, a CPA referral specialist, Bryan Griggs, laid off all of his small staff except his wife in 1994. One employee later charged Mr. Griggs with discrimination and sexual harassment under Seattle's gay rights law even though Mr. Griggs did not know the man involved was a homosexual. But before he cleared his name, Mr. Griggs spent thousands of dollars defending himself. I just repeat, Mr. President, this is the kind of activity for which this legislation sets the stage and for which I would encourage all Members of the Senate to thoughtfully consider.

In light of our current experience with affirmative action, national quotas, et cetera, I think, on balance, Senators should join with myself, Senator NICKLES, and others in opposition to the bill.

Mr. President, I yield back whatever time of the 5 minutes I have to the manager of the bill, and thank her for granting me this time.

Mrs. KASSEBAUM. Mr. President, I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I want to thank our colleague from Georgia for his statement. He mentioned the fact that he was an employer and he did not ask questions in the past concerning people's sexual orientation. I have been an employer. I never asked that question. I do not want to ask that question. I am afraid if this bill became law, you would have to ask that question.

Looking at the statutes under title VII, it talks about the power of the EEOC to conduct investigations under section 2000e-8. It basically says: "Every employer, employment agency \* \* \* subject to this subchapter shall"—not "may"—"shall (1) make and keep such records relevant to the determinations of whether unlawful employment practices have been or are being committed, (2) preserve such records for such periods, and (3) make such reports therefrom as the Commission shall prescribe by regulation or orders thereunder." And so on.

In other words, the EEOC is going to say keep records. They now have to keep records. Employers have to keep records on their employment practices, on people they hire, on their race, on their sex, on their gender, and now we would include sexual orientation.

What does that mean? It means employers are going to have to ask their employees, "What is your sexual orientation? Are you a heterosexual, homosexual, or bisexual?" I can envision some of the people I used to work with in a particular machine shop, and you might be punched out for asking that question. I mean, that is really none of your business. And yet, now the Government would be asking, I believe in compliance with this EEOC, to keep those records.

Sponsors of this bill will say, well, we do not have quotas, but frankly the records, I think, are going to be asked for. I think that is very intrusive. Then are you going to ask somebody, wait a minute; we found out here you have 100 employees and nobody said that they were homosexual because maybe that would not be well received in the particular place of employment. Maybe that is not true. Are you going to go back to people and say, wait a minute; we want you to tell the truth because we are afraid we might be sued, and we have to prove we have people that are homosexual or bisexual, in other words, to prove we were not discriminating.

So you are going to ask people again, wait a minute; we heard you are \* \* \* This is very intrusive, big Government coming in, meddling in areas that it has no business asking questions about, it should not be asking about. I hope our colleagues are aware of it.

I want to touch on the Boy Scouts. Sponsors of this bill have said, that they are excluding the Boy Scouts. Boy Scouts have been sued without this bill becoming the law, without sexual orientation being added to the civil rights statutes or protections. They have been sued because of their policies, because they did not want to have open homosexuals as Scoutmasters. That is present law, a present suit. They spent hundreds of thousands of dollars. You have a lot of organizations that maybe are not the Boy Scouts but also work with young people that would like to maintain a similar type of policy of having role models that are not avowed or open homosexuals or bisexuals and yet they would be sued.

One comment, on exempting Christian organizations. This bill does not exempt Christian for-profit organizations. If you have a Christian bookstore and you are trying to sell something in Scottsdale, AZ, sell books in your Christian bookstore, and you have somebody come in that is openly gay, maybe it is written on their T-shirt or somehow it is very much communicated and you do not want to hire them, you are subject to suit. You can be sued not only for compensatory damages but for punitive damages. The



big hand of the Federal Government will come in and say, "Mr. Employer of XYZ Christian bookstore or Jewish bookstore, you must employ this person even though their sexual orientation is very contradictory to your personal and religious convictions. You must employ them or you can be sued." I find that very offensive. I hope we will not go so far as to do that. I am afraid that is exactly what we would do if we pass this bill.

I understand some of the motivation that some of the people have. I think this debate has been conducted very well. I just want to say that people who oppose this legislation I do not believe are bigoted. I think they are trying to protect an individual's right to protect their religious convictions and organizations—organizations like the Boy Scouts, organizations like a cheerleading camp or a children's camp or a day care center, or Christian bookstore. We want to at least protect their right that if they want to make sure they have role models who are not bisexual or openly homosexual amongst kids and so on, they would have the right to have that and maintain their policies, without the big hand of the Federal Government coming in and saying, "No, you are subjected to not only compensatory damages but punitive damages and all the legal fees that would come with that."

I urge my colleagues when we vote on Tuesday to please vote "no" on this legislation. I yield the floor.

Mrs. KASSEBAUM. Mr. President, I yield 3 minutes to the Senator from Missouri.

Mr. ASHCROFT. I am pleased to return to the floor to add a note to the discussion which has continued since I left the floor. There has been further debate about how the bill exempts organizations like the U.S. military, and exempts, properly so, I think, private schools, and it attempts to exempt the Boy Scouts.

Since I pointed that out and said basically I thought those were good exemptions, I thought the same reasons for exempting them should exempt the rest of the culture. Why impose something that would threaten the Boy Scouts or threaten the U.S. military, or threaten private nonprofit schools? Why impose those kinds of things on the rest of the culture?

After I left the floor the allegation was made that the arguments against this bill flowed from bigotry and could be characterized as cheap shots because we would exempt the entire culture. I guess I just have one question to ask: If it is bigotry to exempt the entire culture, is it small-time bigotry to exempt the Boy Scouts? Is it small-time bigotry to exempt limited portions of the culture? In my judgment, it is not. I think it is a mistake to suggest it is bigotry to oppose this bill.

I think that there are real problems with the underlying principle of this bill, and that those problems are understood, and as a result we attempt to

exempt organizations like the Boy Scouts. We exempt the U.S. military because we do not want to subject it to some of the problems that would attend its application. I think those of us who oppose this bill are not bigots or taking cheap shots or cheaper shots. If it is a cheap shot to exempt the entire culture, it must be something of a cheap shot to exempt part of it. We are not really saying we want to take a cheap shot. We are saying this is not the way for us to move forward.

I believe the framers of the legislation were right in their attempt to avoid the imposition of onerous, counterproductive regulation on a good bit of our culture—private schools, nonprofit, Boy Scouts, the U.S. military. We can ill afford to do things that impair their mission or their capacity. I think they were right in doing so. For those of us who would have a broader exemption, who believe it would be counterproductive overall, I think we are arguing from good faith and in the best national interest. That is a point which I think deserves to be made. It can be contradicted but I do not think it will be refuted.

Mrs. KASSEBAUM. Mr. President, I yield myself 5 minutes.

Mr. President, I have spoken earlier about concerns I had with this legislation. I agree with the Senator from Missouri. I think one can oppose this legislation and not be thought of as being bigoted or, I suggest, creating stereotypes, because I think there are some very troubling aspects of this bill. The subject of this bill is, in many ways, not easy to define.

Let me suggest that there are several points that have been raised here today in the course of the debate. One, I do believe it will lead to prolonged litigation where there are punitive and compensatory damages involved that could further divide the workplace. I do not believe it furthers what we would most like to occur—a tolerant and understanding workplace. Second, there is a question about how this law would impact affirmative action requirements. And third, how it will impact on the strongly held views of employers or employees?

I guess what we are really trying to decide here is how far we can go by legislating what employers should or should not do when it comes to firing and hiring. I do not think we can answer that easily by legislation. I frankly believe, as I said before, that I think every single one of us deplores discrimination. We should not stereotype anyone. I do not think that we are.

However, I do believe that there are legitimate concerns about the consequences of this bill that lead me to oppose the legislation before the Senate. I think there are better ways to promote tolerance. I suggest, also, Mr. President, that I think it is very important for us to respect differing viewpoints in the process and to continue to hold respect for all individuals. I believe we can hold these views. I believe

we can be respectful of differences and still oppose this legislation.

As we consider the aspects of the debate that we have heard here this morning, when we vote on Tuesday, I urge those who are uncertain about how to vote, even though there have been arguments that have been made on the other side that have shown where States have had this legislation in place, very few cases have been brought. As the Senator from New York, Senator MOYNIHAN pointed out, and Senator KENNEDY as well, to have legislation imposing requirements in order to open doors—indeed, this is a different type of situation and we need to think carefully about what it may lead to in the future.

I would suggest there may be some different and better paths as we look at the consequences of litigation on firing and hiring practices.

For these reasons and the concerns I believe that exist, I urge all Senators who have some doubts about this to oppose this legislation.

I yield back any time remaining, and 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. 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.

Mr. COVERDELL. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COVERDELL. Mr. President, it is my understanding that, for the next hour, time designated is under my control and/or my designee.

The PRESIDING OFFICER. The Senator is correct.

#### TAX RELIEF

Mr. COVERDELL. Mr. President, as we have heard, there is a great national debate in the making with regard to the anxiety in the American workplace, anxiety particularly among middle-class working Americans. I have often talked about a snapshot of an average family in Georgia that makes about \$40,000 to \$45,000 a year. Several months ago, when I took the snapshot of that family—a family of four, with both parents now working, with two children—we added up the Government obligations that that family had to pay, the total cost of Government. At the end of the day, they had 48.2 percent of their gross wages left.

I can think of no institution, including Hollywood, that has had a more profound effect on the behavior of middle-class America than their own Government. This morning, I have just been given data that show that now they only have 47 percent. Just in the last 12 months, they continue to lose the power of the wages and the independence of what those wages mean to that family.

Maybe the First Lady and Senator Dole have defined our disagreement. In Chicago, she said, very defiantly, that it does take a village to raise a child. Of course, "village" is the Government. Senator Dole said that it takes a family. All year, we have been debating the subject about whether the resources should go to the village—the Government—or whether the resources should be left with the family.

I believe the empirical evidence is unshakable that those resources, those wages, should be left in the family checking account, so that that family can undertake the responsibilities that America has always asked of them—to get the country up in the morning, get it to school, get it educated, get it housed and fed, clothed, transported and, yes, in good health and spirits, and to ultimately accept the leadership of the country. For us to be here this morning debating the fact that an average family in America is now forfeiting over half of its wages to the Government at some level, being denied those earnings and the independence it gives the families to do the things it is supposed to do—if Thomas Jefferson were here today—and I have said it before—he would be stunned that we had ever come to a point in America that we had confiscated that sum of the earning power of the wage earner and sent it off to some government to remake the village. Maybe those two sentences have, more clearly than anything else we have heard in a long time, defined our two views of the country.

I see we have been joined by the Senator from Utah. I yield up to 10 minutes to the Senator from Utah to speak on this subject.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, as I contemplate the issue of taxes and their impact on the average family, my mind goes back to an experience that, for me, was very typical—that is, for my generation—but it is becoming increasingly less typical for Americans. I would like to recall it as a model for this discussion. When I was in my twenties, I was in the Armed Forces. At that time, everyone who was male and in his twenties was in the Armed Forces. The law required that. It was a new experience, a cultural shock, as they took me to Fort Ord, CA, and cut off all my hair. I will stipulate that at that time in my life I had some hair to be cut off, unlike my present circumstance. They put me in a uniform, put me in a barracks, and changed my life.

I was an employee of the U.S. Army and, as such, I received the monthly salary of \$90. People could say to me, "Well, you can't live on \$90 a month." But the Army would have pointed out to me, if I had raised the issue, that the Army took care of all of my food, all of my clothing, the Army took care of my housing, and the Army took care of my transportation. If the Army did

not take me someplace, I did not need to go there. The Army would tell me that would be the case, and that the \$90 a month I had as my salary was spending money. I could use it to pay for the haircut that the Army required me to have. I could use it to buy some candy bars, or whatever movies I might want to go to. But my life was OK, because the combination of cash and Government-provided benefits together provided me with a standard of living that the Army decided was adequate for me.

Why do I cite that in this discussion about taxes? It is because that is the philosophy that I think we are seeing here, where people say to us, yes, there is so much coming to the Government in the way of taxes, but look at what the Government is doing for you in return for those taxes, so that you would want to continue paying the taxes because your country needs that money in order to provide you with all of those wonderful benefits that you are getting.

In the debate when Senator Dole raised the issue of possibly cutting the tax rate, the first thing we heard was, "We can't do that because we can't afford it," to which I echo the question: Who is "we"? "We can't afford to give up the revenue that is coming from the tax rolls." Who is "we"? "We" in this case means the average American family. The average American family currently spends more for those Government benefits, like the food, the uniforms, the barracks, and so on that I described when I was in the Army. The current American family spends more for Government than it spends for food, housing, and shelter combined. Yet, we need more money to run the Government than the family needs to feed itself, clothe itself, and house itself. The question arises, not where will the money go but who will control it?

Let me give you an example. One of the things we buy with Government money is retraining programs for people who are out of work. In the State of Utah, we have a training program that is called ATC—Advanced Technology Centers. It is one of the, I think, most effective educational programs that has ever been run. I could go on at great length and describe how it works. The State pays for it. People who need it enroll in it, and they keep the cash for themselves to make the decisions with respect to their lives. They enroll in this training program not because the Federal Government is running it and the Federal Government has decided that it must be offered. They decide in terms of their own lives what kind of training they need. They come to the program, and they choose which part of the program they will take. And when they feel they have gotten what they need, they leave on their own. In other words, the decisions on retraining are made by the individuals—not by the Federal Government, or the State government. But we will take money away from them to fund some 157 Federal retraining programs

that the Federal Government will then require people to go to in order to get their unemployment benefits.

Which is the more efficient—where the individual makes the decision, or where the government makes the decision? The answer is very clear. The individual makes more intelligent decisions than the government does. Why? Because the individual is concerned about the effect of that decision on his or her life, and the government, by necessity, has to make these decisions for a whole range of folks.

Let us talk about tax money specifically. Right now in this country real wages are stagnant, and they have been for something like 17 years. Government is not. Government has been growing in that 17-year period. Once again, we are told, "We can't cut the amount of tax burden on the families because we can't afford it." Again who is "we"? What would happen if we were to say, "All right, we are going to allow families to keep more of what they earn and forego the government programs"? An interesting thing would happen. If you were to say to families who have children—which almost by definition means that they have financial problems—if we were to say to families that have children, "OK, we are going to allow you to keep more of your money. What are you going to do with it?" "Well, we are going to spend it perhaps on a new car because with children we have to have a slightly bigger car than the one we had when we were courting. We are going to replace the washing machine. With children we wash a lot more clothes than we used to. We are going to buy more clothes for our kids. We are going to choose so on and so forth."

I have had economists say to me, "Why do you support the \$500 per child tax credit, because it is not going to do anything in our macroeconomic models to increase savings? And the reason you have a tax cut to stimulate the economy is because you want to increase the savings rate and so on." I will not get into all of that macroeconomic conversation here. You are right; families will not increase their savings if you say we are going to give them a \$500 per child tax credit. What are they going to do? They are going to go out and buy things for their kids. Kids are now consumer kids. There were times when they were an economic asset. Now kids are a luxury item. We have them nonetheless. But they cost us money.

What is going to happen when Detroit has to build additional cars because people with families want bigger cars, when they have to build additional washing machines, when they have to produce more clothes? What is going to be the impact of that on the economy and ultimately on the amount of money that will come back to government in the form of taxes? I have seen some macroeconomic studies that say the \$500 per child tax credit is going to produce a greater economic

stimulus than even the cut in the capital gains tax rate. I am not sure how that all works out. Frankly, neither are they. Because the one thing we have to recognize is that we are dealing with a \$7 trillion economy, and the size of the \$500 per child tax credit in terms of the impact on the economy as a whole is less than 1 percent. That is true, Mr. President. If you take the size of the economy as a whole and add it up for the next 6 years—because 2002 is our target date—you are talking about roughly \$50 trillion worth of economic activity in that 6-year period. The size of the \$500 per child tax credit is less than \$500 billion over that same 6-year period, considerably less. So it is less than 1 percent.

Mr. President, I ask unanimous consent that I proceed for an additional 2 minutes.

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

Mr. BENNETT. Mr. President, we are talking about a tax credit that is less than 1 percent of the entire economy. But look at what it means to the families with children. Look at what it means to those who will make the decisions themselves—that instead of all the benefits like the Army used to give me in uniforms, barracks, and mess hall privileges, I say, “Thanks. Just give me the cash and let me decide where I am going to live, what I am going to wear, and what I am going to eat.” I will make wiser decisions, and the impact on the economy will be better.

So this is where it ultimately comes down to, Mr. President. Again, the question: Who is “we” when we say we can’t afford a cut in tax rates? The “we” is the American people, and I believe the American people left to handle the cash rather than the so-called “benefits” can make a wiser use of that money than the Government can.

I am glad my experience with the Army is over. It was a good experience. But I prefer the freedom I have to have the money and make my own choices, and I think most Americans feel the same way.

I yield the floor.

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

Mr. COVERDELL. Mr. President, I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I changed my 3 to 5, Mr. President, after listening to the distinguished Senator from Utah. I shared the same experiences in the Army, and I know exactly where he is coming from.

Mr. President, when he stated that Jefferson would have been stunned if he would have known what we have here today, some who were around back then would not have been so stunned. It was de Tocqueville who made the observation after writing the book about the great wealth of this

country and what made it so wealthy. He said that once the people find that they can vote money out of the public treasury, the system will fail. And I think we are getting dangerously close to that.

As I watched the Chicago convention and all of this emphasis on the family, I was thinking, “How in the world could any administration with such a dismal failure in their treatment of family values be talking about the family?” Maybe that is the whole reason they are doing it.

I think if you go back and look, Mr. President, at the tax increase that took place in 1993, it was characterized by then chairman of the Senate Finance Committee, Senator MOYNIHAN, the distinguished Senator from New York, as the “largest single tax increase” in the history of public finance, or any place in the world. That is exactly what happened.

What was the nature of that tax increase? It was a tax increase on the American family. It was a gasoline tax increase. That is not just for fat cats. That is for everyone who drives a car, drives a truck, or drives a tractor. It was a tax increase on small business and on individuals, and even retroactive—going back and saying, “It is not enough that we go ahead and tax you from this point forward, but let us go back to January.” I think that is the first time in history that has been done. It was a 70-percent tax increase on the Social Security recipients who cared enough to prepare for some of their senior years so they would have as much as \$22,000 of income. It was an increase in estate taxes. And what is interesting about this is we passed a bill, several provisions that would have been geared just to the family, the \$500 per child tax credit, the capital gains tax reduction, repealing some of our laws that penalize people who get married, who if you stay married—actually right now under the law on the books two individuals who are happily married, if they will get a divorce, can increase their take-home pay by reducing taxes. Is that what Government is supposed to do?

Anyway, I enjoyed the statement by Senator Dole when he talked about doing something about the overtaxation. And if you will analyze what he was suggesting in repealing that Social Security tax increase, the \$500 per child tax credit, the reduction of taxes by 15 percent, the reduction of capital gains taxes and the repealing of the estate tax, all he is saying there is let us go back and see what happened in 1993 and let us repeal a portion of that tax increase.

So I would suggest that anyone today who was not supportive back in 1993 of the tax increase should be supporting what Senator Dole is proposing to do now.

The Senator from Utah mentioned we cannot afford it. I would like to make one comment. I heard the distinguished Senator from Arizona quote John Ken-

nedy several times on the fact that back when he was President, he said we have got to increase revenues and the only way to increase revenues is to reduce the tax rates. He reduced the tax rates and that did increase revenue.

So I suggest to the Senator from Utah that we can afford to do this. We can effectively increase our revenues by reducing taxes. The formula works out that for each 1-percent growth in economic activity it increases revenues by \$24 billion.

However, we do not have the same kind of Democrat in the White House today that we had when we had John Kennedy. It was Laura Tyson who said there is no relationship between the level of taxes a nation pays and its economic performance. And if you have that philosophy, then you can say, yes, we cannot afford it.

Indeed, history has shown us in three decades in the last 100 years, the twenties, the sixties, and the eighties, when we had dramatic reductions in tax rates, each time we increased our revenues. So I think it is a question now of are we really concerned about the family, are we really concerned about doing something about the lessons of those times? I think the time is here, and we have a Congress that is willing to do it.

I applaud the Senator from Georgia for bringing up this subject to discuss today.

Mr. COVERDELL. Mr. President, I appreciate very much the remarks of the Senator from Oklahoma—as always on this subject precise and on target, and I am glad he was able to be with us this afternoon.

The Senator from Arizona is here and would need up to 5 minutes. So I extend 5 minutes to the Senator from Arizona.

Mr. KYL. I thank the Senator.

Mr. President, during the last few weeks, as the Presidential election campaign has gotten underway, the American people have heard a great deal about two very different tax plans for the country.

One of the plans proposed by President Clinton involves token relief if—and I stress if—people spend their money in ways that the Government deems most appropriate. The other plan represents the most ambitious, progrowth economic program since the beginning of the Reagan administration, a program that puts faith in the American people to spend their money in ways that are best for themselves and their families and their communities.

Mr. President, the ambitious program that I am talking about is the one that Bob Dole has made the centerpiece of his campaign. It is a plan that would cut income tax rates across the board by 15 percent, a plan that would provide families with an additional \$500 per child tax credit, and an opportunity to save in new education investment accounts for college education. It would repeal the President’s 1993 tax

on Social Security, and it would provide important incentives for job creation through capital gains tax reduction.

What does all of this mean for the average American family? For a family of four earning \$35,000 a year, it would mean a savings of over \$1,400 a year, a 51.8 percent reduction in that family's tax bill. In other words, it cuts the tax bill in half. For a family making \$75,000 a year, it means a savings of 26.7 percent. It cuts that family's tax liability by a quarter. In other words, it provides real tax relief and targets it to those families who need it the most.

Unlike the plan that President Clinton has proposed, the Dole plan offers broad-based relief and allows all taxpayers—those who are married and those who are single, those with children, those without children—to decide for themselves how they can best use their savings to help themselves and their communities. Maybe they could use the money for new school clothes, as Senator BENNETT pointed out, or for books so children can do some extra reading. Maybe they need the money to put a new roof on the house or put savings aside for a downpayment on a home so they, too, could fulfill their dreams to own a home. Maybe someone would use the funds to start a new business or to create new jobs for young people entering the work force.

The issue is trust. Do we trust the people enough to decide how to use their own hard-earned income or do we need the Government to decide for us how to spend our money. The Dole plan puts faith in the people and so do I.

History shows that when we put our faith in people, the country's economy as a whole does much better. The Senator from Oklahoma pointed out that I frequently quote John F. Kennedy in this regard, and I do. He proposed a tax cut in the early 1960's to help stimulate economic growth, and that plan ultimately led to one of the few periods of relatively strong economic growth in our country since World War II.

The economic effects of the Reagan tax cuts in the 1980's were just as dramatic, leading to the longest peacetime economic expansion in the our Nation's history. In fact, by the end of President Reagan's second term in office real gross national product had risen by more than 4 percent a year. Nearly 19 million new jobs were created, more than 85 percent of which were full-time jobs in occupations with average annual salaries of over \$20,000. Real median family income grew every year but one between 1982 and 1989, rising \$4,564 or 12.64 percent. That is real median income, extra money in people's pockets to help meet their everyday needs. That is what the Reagan program accomplished.

By contrast, the high tax policies of the 1990's have had exactly the opposite effect. Real median family income has declined \$2,108 or 5.2 percent for the average family. People are caught in the trap of stagnating, declining wages and

higher taxes, and they are hurting. No wonder it takes two adults in the family working to support the family. One supports the family; the other supports the Government.

I know that some people are asking whether tax cuts are an option today in an era when voters and public officials alike are seeking to balance our Federal budget. Well, John Kennedy also answered that question noting, and I am quoting:

An economy hampered with high tax rates will never produce enough revenue to balance the budget just as it will never produce enough output and enough jobs.

The question is not whether we can afford a tax cut. The question is can the American people, many of whom are working two jobs just to make ends meet, afford a Government that continues to take more of their hard-earned income every year? Can the next generation afford the tax burden that will be imposed upon it just to pay the debts our Government is accumulating today? Can we do better for our children than to leave them with a sputtering economy, falling income and rising taxes?

The Dole plan is not simply a tax cut but an overall economic plan to revitalize the Nation's economy by putting faith in people to save and invest their hard-earned money in ways they deem best for themselves and their communities. President Clinton has promised that the era of big Government is over. Bob Dole's economic plan will help keep that promise.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Georgia.

Mr. COVERDELL. I thank the Senator from Arizona. I think maybe it will be useful to step back for a moment, to help frame what it is we are talking about. In 1993, the Clinton administration imposed the largest tax increase in American history, \$491 billion. That resulted in the highest tax burden, 19.3 percent of the entire economy, that is being consumed by Government.

So the stage has been set. These are very large numbers, and they tend not to get brought down to what the effects are on everyday folks out here. What is happening is the median income for America's average families is continuing to fall and has been falling for some time. From 1986 to 1993, it dropped \$3,800, and continues to fall. These are the reasons. As Government grows, and grows unfettered, the resources have to come from somewhere. The families that are most affected are middle-income families. The very wealthy are able to adjust their lives accordingly. The very poor are using the safety net. But middle America is paying these bills.

I am reading from an article that appeared on July 22 in the Atlanta Constitution. It says:

To fend off that decline and maintain a middle-class lifestyle, many women who

might prefer to remain at home have, instead, entered the workforce. But even that strategy has begun to pay lower dividends. In families headed by a married couple in which the wife is in the workforce, median income peaked in 1989 and has declined noticeably since.

Another article on this subject:

In particular, declining earnings have fueled the rapid increase in labor force participation of women, including women in 2-parent families. Whereas, in 1950, only 20 percent of married women with children, and 12 percent of those with preschool age children, worked, by 1990, 40 years later, two-thirds of married women with children were employed.

A survey, I believe it was done by Rand, was recently released about the second spouse, or women in the workplace. It said 85 percent of the women in the workplace would like to alter how they are in the workplace if they could. Of course they cannot because of the economic burden that our governments have placed on their families. They are so high that the option is removed. It is not a decision, to make a choice to go into the workplace. The Government is forcing it.

Of the 85 percent who said they would alter it, one-third of those said they do not want to be in the workplace at all, they want to be at home; one-third said they would like to work just part-time so there is more time for the family; and one-third of them said they would only volunteer. They would just work as a volunteer. They do not have that choice. Congress and the administration, over the last several years, have made that choice for them as we have ratcheted up the burden.

A moment ago I was talking about the Georgia family and I pointed out they are forfeiting half their income to some government at this point. That is enormous. It is just hard to comprehend. During this administration, that average family's checking account has shrunk by \$200 a month, anywhere from \$2,200 to \$2,600 a year. That is the impact on this average family in my State of the policies of this administration. When they raised the taxes to the record level and produced this highest tax burden ever, the effect on an average family in a little town in my State is that their checking account has \$2,400 less a year. That is just like removing something like 10 to 15 percent of their total disposable income.

Is it any wonder that these average working families in our country are not saving money? Are we surprised they do not save money like they should, to prepare for a rainy day, prepare for retirement, prepare for their children's education? What is left to save, after the Government has marched through your living room and taken half the assets?

Are we surprised that credit card debt is at an all-time high? Are we surprised that the payments on delinquencies on credit cards have plummeted? Are we surprised that, if you work from 9 in the morning until noon every day for the Government, and this

tax burden has been made so high that you have to have both spouses and in some cases their children in the workplace, and in some cases not only do both spouses now work, but, indeed, they have to have two and three jobs each—Are we surprised that the behavior of that family has been modified? That the children are left without the kind of attention those parents would like to give? That they are not there to be the guide and beacon for those kids? They call that latchkey children. Of course they are latchkey children. The Government policy from Washington has increased the burden, increased the burden. We have pushed both spouses into the workplace. We have now got them to where they have to have two and three jobs. We have created stress. It is no wonder there is so much anxiety in middle-class America.

I am reading from another periodical: "Work and family integration."

It is increasingly common for all adult family members to spend a greater number of hours at work in order to make up for declining median family incomes. Married women with children have entered the labor force in record numbers. They, therefore [it doesn't take a rocket scientist]—they, therefore, have less time for care-giving in the home. Many parents, both mothers and fathers, feel conflicted and torn between spending time with their families and meeting workplace demands. "It's like you are caught between a rock and a hard place, because if you want to have a family, you want to have a couple of children, and you cannot do that unless you have lots of money to support them."

That quoted a woman in her twenties in Salt Lake City.

So, Mr. President, Senator Dole has come forward. There is a lot of talk about what each of these proposals means, but the bottom line is this: He is saying that Government, Washington in particular, has put too much financial pressure on these fragile families. It is creating havoc, and it ought to be a conscious, fundamental, sound policy to give them relief, to allow them to keep more of what they earn so that they can do what they are supposed to do in that home. And, yes, he is saying we think that the best caretaker of those children is their parents and the family in the comfort of the home, and, no, a village, a government is no replacement for that policy.

So he has stepped forward and said, "I intend, with a cooperative Congress, to effect lowering the economic burden on the average family."

Mr. President, I know that you, the Presiding Officer, would like to speak on this subject. So I am going to suggest the absence of a quorum so I might assume your duties so that you can speak on this subject and then replace me afterwards.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. FRIST. Mr. President, I rise today to continue on the topic that was begun so admirably by yourself, the Senator from Arizona and the Senator from Oklahoma on the benefits of significant tax relief for all Americans, for individuals, for their families, for their children, for the next generation.

Whenever we seem to debate tax policy in this body, we seem to begin with different premises, and I think we really must focus over the next year on a principle which I feel should govern our decisionmaking. That is, that there is no such thing as "Government money." Money today through taxes comes from individuals, hard-working individuals. It comes from a person, it comes from a family, it comes from a business, and it comes to Washington, DC, and not the other way around.

For far too long, the Federal Government has treated the income of American people as its own money. This practice absolutely must stop.

I want to refer, as I develop this principle over the next few minutes, to a recent editorial by Washington Post columnist James Glassman. The editorial is entitled "It's Your Money." I will alter it a little bit and say "It's the People's Money," because that is the underlying principle I think we must come back to as we discuss tax and tax policy.

In that editorial, Mr. Glassman pointed out that there are two schools of thought on tax policy. Under the first one, using the words of Mr. Glassman:

We use an old-fashioned business model to think about taxes. Taxes are revenues, like sales. The objective for the Government is to match up those revenues with its expenses so that it doesn't lose money. Under that model—

According to Mr. Glassman—the Government dispenses tax cuts as a gift from Washington.

But I do not think the American people view their tax dollars in this fashion. They tell you that. All of us travel around our respective States and around the country, and they tell you they don't view their tax dollars that way, so we need to stop viewing them that way in Washington, DC.

Mr. Glassman described it in the editorial in the following way. He said the average American, and I begin to quote him, "views taxes not merely as bloodless revenues but as the real, hard-won earnings of individual Americans."

He says:

Tax dollars begin life as personal dollars. They're yours, not Washington's.

He goes on to say:

You do agree through the political process to turn over some of your income, but that deal is transitory and renewable and it depends on Washington providing good value for your money.

Mr. Glassman's words, "good value for your money."

I don't think we in this body can express this principle enough. It is the

taxpayers' money. When we Senators meet with our constituents in our home States, we have to remember it is their money. That is where it originated. And every time we pass a spending bill on the floor of the U.S. Senate, we must be able to go home and look our constituents in the eyes and say, "Here is how we spent your money."

I brought two charts with me, again, to illustrate how taxes have taken a bigger and bigger bite out of the family budget. So many people think so often in the short term and they say, "Well, taxes are high now, yes, but they have always been that way. There really hasn't been much change, and there's not much we can do about it."

Our responses have to be the facts. We do not have to look that long ago when people were paying out of their family budget as much as they are paying in taxes today. We have to look back.

This is taxes out of a typical family budget. This is not an aggregate figure of billions of dollars, this is a family budget, something each of us can touch, feel, experience.

The pie on the left shows in 1955 the family budget, this circle being 100 percent. Total taxes were 27.7 percent in 1955.

If we look in 1995, we see that total taxes are 38.2 percent. All other parts of the family budget are shrinking as the red part of the pie has gotten bigger and bigger over time, just over a 40-year period.

You can also look at this at how many hours you work during the day. If you say this is an 8-hour day that likely you and your spouse are working, look, 3 hours out of that 8 hours is spent working for Government today.

Going back to Mr. Glassman's words, we need better value for your money.

On the second chart, we see a typical family budget, how that budget of that working family with two children breaks down. This is the overall family budget, and, once again, in red, we see total taxes. I just said that 38.2 percent of that typical family budget goes to paying taxes. Where does the rest of it go?

Just very quickly. House and households, about 15 percent in yellow. In the blue, medical care about 10 percent. Food, 6 percent. Transportation, 6 percent. Clothing, 4 percent. And everything else about 17 percent. This might be education for your children, might be savings, might be investment for your retirement.

But look, compare what we pay in taxes to medical care, food, transportation, and clothing, and we can see that what you pay in taxes far surpasses the 27 percent total of medical care, food, transportation, and clothing today.

Most Americans do not think of it in that concrete of terms. It is time we take broadly across this country this process of educating people, to look at what you do when you increase that red, which has been done, as we saw, by

our distinguished colleague from Georgia. We have seen that this red has been growing and growing over time. What does it squeeze out? It means that you spend less money on food or transportation or clothing or savings or investment in your children's future.

You know, in this Congress we have done a number of things, and much of it gets lost before it gets out to the people broadly. We passed a \$500-per-child tax credit for families making under \$75,000 a year. We passed a marriage penalty relief which increased the standard deduction for couples filing jointly. We passed a student loan interest credit to make college more affordable. We passed an expanded individual retirement account that would allow penalty-free withdrawals for first-time home purchases, for medical expenses, for periods of unemployment, for college expenses.

Yes, unfortunately, though this body representing the American people passed all of that, they were vetoed by the President of the United States. Well, despite this setback of a way, we now must review our commitment to allow individual Americans, individual hard-working men and women, not the Federal Government, to keep more of those hard-earned earnings.

To those who say that tax relief will blow a hole in the deficit, I say, join with us as responsible stewards of taxpayer dollars in our commitment to finding offsetting spending cuts. If we are going to allow the American people to keep more of what they earn, we have to slow down this incessant, almost unstoppable growth of Government. Going back to Mr. Glassman's comments, who said, "providing good value for your money."

We can begin this process by passing a balanced budget amendment to the Constitution. That way the American people would have a constitutional assurance that tax cuts would fully be paid for with spending cuts.

In closing, our challenge is to boil down this large debate of taxes and economic policy to something that the typical American can understand. The data speaks very strongly to the typical American. The tax debate will rage on. We need to come back to that underlying principle: It is the people's money. I do urge my colleagues to remember that we—we—we are the trustees of the American Treasury. Building that trust is one of the most important duties we have as U.S. Senators. If we always remember that it is the people's money, I believe we will be responsible trustees.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. COVERDELL. Mr. President, how much time is there remaining?

The PRESIDING OFFICER. There are 8 minutes remaining.

Mr. COVERDELL. Mr. President, I really enjoyed your presentation, as I told you when you approached the Chair. You raised some questions that I am going to pursue, even beyond this afternoon, by the pie chart of the breakdown of the expenditures for the average family. I want to point out again, an average family in Tennessee cannot be a lot different than one in Georgia. It is about \$40,000, \$45,000 that this average family is earning in Georgia. I assume that is about what it is here. When you take 40 percent of that amount, you do not have a lot left. That is not a lot of money.

A point I wanted to make is this is a bit deceptive. It shows that 38.2 percent is paid in total taxes, which, as you pointed out, was larger than what that family is spending for its house and household, medical care, its food, its transportation, and clothing. It is just unbelievable that the Government burden can be that large. But the point I want to make is that it is even larger than the 38.2 percent. Maybe we can collaborate on this and we can produce another chart. But built there is another 12-plus percent that is hidden in the price for the house and household, medical care, and food in the cost of Government regulation and management.

We would all agree that there is certainly a role for safety and health and the like. But that has been growing at an astronomical level. It costs this family \$7,000 a year. That is on top of the 38.2 percent.

On top of it—and I have dealt with this a couple times—when I tend to say they are forfeiting half their earned wages in Government costs and burden, well, 38.2 percent is actual tax, but there are more costs than that. As a result, the burden on that family is just phenomenal, and it is leaving them in a condition that is very difficult.

I have been reading several statistics here. This is one that I find most alarming. Net savings and investment average 10.7 percent of the gross domestic product. I will finish.

We have been joined by the Senator from Michigan who has been at the forefront of tax relief since his arrival in the U.S. Senate. I want to acknowledge him.

I just want to make this one last point, that savings and investment constituted about 11 percent of the gross domestic product in the 1960's and today it is 3.75 percent. That is where the capital to run this economic engine comes from. That is where the protective device for all these families is, in their savings. These burdens have pushed those savings down to one-third of the level they were just 30 years ago. And that is flirting with fire. That is

making a family unable and the Nation unable to protect itself.

Mr. President, I grant the balance of my time to the Senator from Michigan. I suspect that is about 4 minutes or so.

Mr. ABRAHAM. That is fine.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Thank you very much, Mr. President. And I thank the Senator from Georgia for his continuing leadership in providing us opportunities to address issues of importance.

Today I am glad that we are talking about the burdens that face American families, because young families confront a lot of challenges as we move to the end of this century and into the next one. In my own family, we have added a new member since the last time I spoke in this Chamber, just yesterday afternoon. So we, as is the case with all other families that are growing in number, are looking at the challenges we have, and they are challenges in a variety of areas. One of them is obviously the financial challenges that new families and young families confront.

When I am in my State of Michigan, and I suspect the same is true in Georgia, Tennessee, or any other of the 50 States, what I hear from my constituents, from working families, is a very common theme. It is the theme that even though people seem to be working more they find they have less and less to show for it. We have heard it described as a squeeze on the middle class. We have heard it described in a variety of other ways, but we have heard it described consistently in my State for a number of years.

I have sat down with the families to try to find out exactly why they feel this way and what it is that has led to this situation. The very simple fact is, Mr. President, a major reason why our working families are having a harder time making ends meet is that the tax burdens they are confronting, each going up at a pace that is faster than the family income is going up. That, indeed is exactly the case for most people in America. Indeed, during the last 3 to 4 years, family incomes have been absolutely stagnant. Meanwhile, Federal taxes have been going up. In many States, State taxes and local taxes have been going up, as well.

Indeed, it is interesting to note, Mr. President, that across the board we see families confronting a higher and higher responsibility in terms of their paychecks headed to Washington than ever before. Right now, the Federal tax burden is the largest portion of the family budget, 26 percent, which is more than housing, food or education costs. When you add on the burdens of State and local taxes, the percentage goes from 26 all the way up to 38 percent. When you think about that, Mr. President, you think about almost 40 percent of the average family's income being sent to government to pay for programs and services, you realize the extent to which families do feel the crunch.



The crunch has created a very interesting set of changes. It has meant that where in the past one person was working was enough for the family to stay ahead of the game, today, often it is two people working at more than one job. At least in the case of the people of my State of Michigan the solution, it seems to me, is quite clear. Unless we are going to get to the point where families working two jobs and two breadwinners working two jobs is inadequate to allow working families to keep up, we have to give them some relief. The one way the Federal Government can provide that relief is by reducing the tax burden that these families face.

Mr. President, I do not have the time today nor do I intend today to go into a variety of ways by which we can ease that burden. But I think the kinds of plans that have been put forth by Bob Dole and Jack Kemp, calling for across-the-board tax relief, combining that with a \$500-per-child tax credit is a step in the right direction. I think that is what the families of Michigan, the families of America can benefit from.

I add, Mr. President, in closing, in our State of Michigan we reduced taxes 21 times in the last 5 years. That has produced record levels of employment and it has not caused a budget deficit. We have balanced the budget and created a surplus at the same time. We need to give families that relief. I look forward to working within the Senate to accomplish that. I yield the floor.

#### CONGRATULATIONS TO THE ABRAHAM FAMILY

Mr. BYRD. Mr. President, did I understand the distinguished Senator from Michigan to say that there had been a new birth?

Mr. ABRAHAM. That is correct. I say to the Senator from West Virginia, I am happy to inform you as of 2:25 p.m. yesterday afternoon the third baby in the Abraham family was born. I am proud of our new son named Spencer who has joined us.

Mr. BYRD. This is the third child.

Mr. ABRAHAM. We have twin daughters who are 3 years old, Betsy and Julie, and now they have a little brother.

Mr. BYRD. I congratulate the Senator and the Abraham family.

Mr. ABRAHAM. Thank you very much.

Mr. BYRD. He has thrice tasted the experience of immortality. He is living on a new plateau.

What is the new child's name?

Mr. ABRAHAM. I have to indicate that with a certain amount of pride. It is Spencer. He is named after his father.

Mr. BYRD. Wonderful, wonderful.

May I say to the new child:

Once in thy father's arms, a new born child,  
thou didst weep while those around thee smile;  
so live that in thy lasting sleep  
thou mayst smile while those around thee weep.

#### ALTERNATIVES TO MIDDLE EAST OIL DEPENDENCE

Mr. BYRD. Mr. President, I strongly support the actions of President Clinton in responding to the latest round of the politics of aggression by the Iraqi dictator, Saddam Hussein. The response by President Clinton follows in the wise policy footsteps of President Bush by taking strong action, and in acting as a leader of both the West and the Middle East in responding to aggression.

To those who would doubt the necessity of the actions by the President, one should pose the question as to what the consequences would be in the face of American inaction. First, clearly, no other country would take the lead. The signature of the current era is such that response to aggression will not be taken up by other powers in the absence of American leadership, unfortunately. This was the case in the invasion of Kuwait. It was the case in Bosnia when, after several years of Western inaction in the face of ethnic atrocities in Bosnia, only the United States, only the United States, could bring about a credible, effective implementation of peace in that sorry part of Europe. While one should have rightfully expected the European nations to have led that effort, they did not, and would not, in the absence of American leadership. The same is the case today in the Middle East. Our friends and allies in Europe and the Middle East will not act in the absence of American leadership.

It is American leadership which is decisive to the peace in these regions, and I commend President Clinton for his decisive action. It was necessary to weaken the Iraqi leader's ability to intimidate his neighbors, and to make it clear that he will pay a price for his aggression. As President Clinton stated, our action has changed the strategic situation, with Saddam's military capabilities weakened in the south of Iraq. If further actions are necessary to ensure the protection of our pilots in the no-fly zone, then he will continue to have my unstinting support. The President's actions have ensured that the coalition which has acted to restrain and discipline Iraq since the invasion of Kuwait remains viable and intact.

It has been stated on many occasions, during the Gulf war and most recently by Secretary Perry in expressing the vital interests of the United States in the Middle East, that our policy is driven by the energy security interests of the United States. Oil, oil, is the lifeblood of our industrial base, and both Western Europe and the United States, as well as Japan, are far too dependent on the Middle East for supplies. We need to get serious about alternative sources of energy, clean coal technology, other non-petroleum sources, and the overall development of alternative sources of oil.

A very important, world-class, alternative source of oil exists and awaits development in the Caspian Sea area. Following the break-up of the Soviet

Union, large oil resources are now available for commercial development. According to industry sources, some 42 billion barrels of proven oil reserves in this region are available for lifting and transport to the west.

The oil pot of the region is estimated by American industry sources to be comparable to that of the vast Saudi Arabian fields, a potential of some 200 billion barrels of oil, and includes, as well, enormous natural gas reserves. Some 2-4 million barrels of oil per day could be brought out of the Caspian region, across Turkey by pipeline, and to the United States market. These new reserves, in the newly independent states of Azerbaijan, Kazakhstan and Turkmenistan, can bring substantial, rapid economic development to those nations, as well as to Turkey, on their western border. The riches of these reserves can bring new stability and stable independence to those new nations. For the West, Caspian Sea oil could help to diversify the world oil suppliers, stimulate price competition, and bring new security to our supplies.

Already, aggressive efforts have been underway by Western oil companies to develop this resource. In Azerbaijan, a \$7.5 billion contract with the Azerbaijan International Operating Company, a consortium of 12 energy companies, including 5 U.S. companies, could produce an estimated three billion barrels of crude oil over the next twenty years. In Kazakhstan, there is a \$20 billion joint venture between an American oil company and the Kazakh government which could yield as much as 9 billion barrels of crude oil over the next 40 years.

Nevertheless, the oil industry cannot by itself accomplish this achievement. The region has been in turmoil as a result of war between Armenia and Azerbaijan, with large disrupting movements of refugees, and there are constant political and other pressures from Russia and the Islamic world bearing on the Caspian region. The resulting instability requires increased involvement and commitment by the United States Government for large scale projects to go forward. The power and the influence of the United States Government are necessary to accomplish the development of an assured supply of petroleum resources to the West. I believe this should be a major priority for the next administration. The stakes, both economic and strategic, are enormous.

Mr. President, Caspian region oil can be transhipped by pipeline across Turkey, avoiding politically fragile routes through the Middle East or through an unpredictable Russia. Turkey is enthusiastic about this prospect and is ready and able to cooperate with America to make the development of this major new alternative oil source available to the United States. We should not forget, as we so often forget, the contribution of Turkey to the Western anti-Saddam alliance. It was Turkey which

shut down the Iraqi pipeline in 1990, at the request of the United Nations, after Saddam invaded Kuwait. Turkey has continued to keep this pipeline shut down, a great economic loss to Turkey and her people. We forget that. Thus, the development of Caspian Sea region oil is an opportunity to repay Turkey and help her stabilize her economy at the same time that America can develop a new and secure supply of this vital resource. Mr. President, I believe the United States must make an aggressive, fresh commitment to securing new oil supplies, a commitment equal to that we have made in responding to military aggression in the Middle East. The two efforts should go hand in hand. They are part of the same geostrategic calculation and interest. We need to move ahead now to reduce our dependency on vulnerable Middle East oil. A major new government-industry partnership to develop the promising Caspian region is long overdue and has the potential of a great energy payoff for the United States of America.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### WHY AFRICA MATTERS

Mrs. KASSEBAUM. Mr. President, I have been speaking a number of times on why Africa matters to the United States. I spoke before the recess on infectious disease and environmental concerns and how what is happening in Africa can affect the rest of the world, and the United States as well.

Today, I would like to address a broader point about environmental issues—what happens to the natural world in Africa holds consequences for Americans. Even as we struggle to find reasonable, responsible solutions to domestic environmental problems, we must remember that our future is closely intertwined with the preservation and sound management of the environment around the world—particularly in Africa.

Today much of Africa today is caught in a cycle of environmental degradation, poverty and humanitarian crises. Battles over scarce resources can lead to political conflict, which in turn results in forced migration, and further environmental destruction. As a result, the international community feels the effects of not only global environmental changes, but also refugee flows, instability, and sagging trade revenues.

Mr. President, the evidence of environmental degradation on the African continent is overwhelming. From deforestation to land degradation, the shrinking diversity of African plant

life to the increasing number of endangered species, the African environment affects the United States.

#### DEFORESTATION

Let me begin with the most shocking of all the environmental problems sweeping the continent—deforestation. Consider the following:

In 1900, forests accounted for 40 percent of the highlands in the Horn of Africa. By 1990, only 4.4 percent of these forested highlands remained.

In 1961, as much as 60 percent of the west African nation of Sierra Leone was covered by primary rainforest. Today, that figure has dropped to 6 percent.

These are but two examples of what is an all-too-familiar pattern on the continent. And because Africa's population is projected to increase by over 50 percent as early as 2010, the pressures on remaining forest lands are likely to grow as people seek new land to live on, new fields to cultivate, and new sources of firewood for cooking and heating.

The immediate consequences of deforestation are soil erosion and flooding. Combined with other forms of land degradation, these trends lead to food shortages and massive displaced populations. Some experts believe that severe desertification will affect more than 100 million people on the continent by 2010. Already, food shortages threaten 22 million people in sub-Saharan Africa. Trapped in a cycle of poverty and need, these people will continue to destroy their natural environment in a desperate effort to survive.

Unless we recognize the larger environmental factors that create and exacerbate crises, the United States will continue to operate in a reactive mode, addressing tragic and costly emergencies and famines after they occur, and watching potentially strong societies and markets descend into disaster.

The consequences of ignoring environmental issues in Africa extend beyond humanitarian and economic concerns. Africa's forests, like those in South America, act as carbon sinks—absorbing harmful carbon emissions. As global population rates grow, rural-to-urban migration continues, and more and more people drive cars, our capacity to manage air pollution here in the United States and around the world may depend on the survival of these forests.

#### BIODIVERSITY

Mr. President, in addition to these disturbing trends in land quality, biodiversity depletion in Africa also impacts our future—particularly in the field of medicine. Over and over again, researchers have found highly effective cures in the forests of Africa:

Some may smile at this. But this is scientific research that shows, as a matter of fact, that the rosy periwinkle that grows in Madagascar is highly effective in treating Hodgkin's disease and leukemia.

Bark from the African plum tree has proven successful in treating enlarged

prostate glands. Yet, in the 1980's, environmental mismanagement in west Africa brought the region's plum trees dangerously close to extinction.

We cannot know what other cures may be contained in Africa's rapidly disappearing forest lands—and never will unless more is done to combat the environmental destruction sweeping the continent.

Mr. President, just as environmental degradation puts the future of medical research at risk, we cannot begin to guess at what agricultural breakthroughs may never occur as the diversity of African crops is lost to environmental crises. For example, we have already learned:

Germplasm from African crops may help the rest of the world to adjust to climate changes by breeding drought-resistant varieties of grain.

Researchers at the National Academy of Sciences have identified pearl millet, which grows mainly in west Africa, as a potential jewel for genetic research, due its natural genetic diversity, robust nature, and quick maturation.

The African Continent may be home to other, lesser known agricultural breakthroughs that will contribute to global well-being, provided they do not fall victim to the environmental devastation.

Mr. President, in recent years, the international community and Africans have become increasingly concerned about threats to animal kingdom diversity. Poaching, human encroachment on animals' natural habitats, and ineffective wildlife management continue to endanger several unique species. While African elephants appear to be making a comeback, black rhinos remain in danger, as do cheetahs, mountain gorillas, and other magnificent species of wildlife. A basic respect for life and an appreciation for its diverse forms demands that we recognize and address the problem of endangered species on the African Continent.

Mr. President, all of these trends, as well as the relationship between environmental upheaval and emerging diseases that I discussed earlier, make the case for a thoughtful and engaged foreign policy toward Africa.

Responsible and creative environmental policies in Africa—including land management, agroforestry initiatives, pollution reduction, and biodiversity preservation—serve U.S. national interests. With patience and engagement, we gain new cures for painful diseases and new crops to feed our children into the 21st century. We preserve the magnificent diversity of animal life for our grandchildren. And we help bring stability, development and economic growth to the African Continent.

We can't do this all by ourselves. That would not be successful policy in and of itself. But we should be mindful of the fact that it does influence the United States and other nations and other continents around the world. And that is why we should be concerned.

Both Africans and Americans have a great deal to lose—and perhaps even more to gain—by addressing environmental issues on the African Continent. These are not easy issues, but we must proceed as we would with any long-term security concern—with sensitivity, determination, and wisdom. If we do so, generations of Africans—and Americans—will benefit from a sustainable, diverse, and thriving natural world.

Mr. President, I yield the floor and appreciate the opportunity to speak on this issue at this time.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to proceed for 20 minutes in morning business.

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

#### RETIREMENT OF SENATOR KASSEBAUM

Mr. DORGAN. Mr. President, I likely will not have an opportunity to take the floor of the Senate again while the Senator from Kansas is in the Chamber. She just finished a discussion on a foreign policy issue, but I did want to say while I am in the Chamber and she is in the Chamber that this institution is going to miss her service.

There is a lot of discussion these days about the bickering between Republicans and Democrats, and the American people do not like to see that; they want to see a Congress that serves the interests of the American people. They want to see Democrats and Republicans think through ideas and work together to find the right course for our future.

Senator KASSEBAUM is one of those people in Congress, recognized by everyone serving here as an extraordinary Senator who cares a great deal about this country and has contributed immensely to this country's betterment. I for one have felt privileged to serve with her in the Senate while I have been here, and I will miss her.

#### A COMPETITION OF IDEAS

Mr. DORGAN. Mr. President, I mention the issue of ideas. It is a Presidential year. The Constitution of our country, drafted a couple of hundred years ago in a little room over in Constitution Hall by the Framers of the Constitution, described that every even-numbered year in our country the American people would grab the steering wheel and have an election and the American people would decide in which direction this country moved. It was not going to be a decision by a bunch of elitists, a bunch of big business folks, a bunch of labor people, a bunch of investors. It was going to be a decision by the American people to grab the American steering wheel with their vote and decide which way this country would move. It was quite an extraordinary

thing. The late Claude Pepper used to call it the miracle in the Constitution every even-numbered year.

What I expect the Framers of this democracy hoped would be is that in these elections we would have a competition of ideas, ideas advanced by different candidates from different positions, saying this is what we believe will advance the interests of our country. This is what we believe will improve America.

Regrettably, American politics and American elections have become much less a competition of ideas than a competition of slash and burn, 30-second ads telling the American people or people in a State or district how awful someone might be, how terrible someone has been, instead of what are my ideas, what do I think will improve this country.

I hope this election will be different. I guess there is no reason to believe it will be different until the American people decide to change elections in this country by saying to those who wage negative campaigns that we will not vote for you.

The minute negative campaigns do not work they will not be used. People use what works. Negative campaigns work, and they are used extensively, with great devastating effect in our country these days.

There was a debate about 2 years ago in a congressional district that I read about that I thought was quite fascinating. The two candidates for Congress came to the debate and were told by the debate organizers, by the way, we have a very simple, unusual rule that you will have to adhere to. The rule is in this debate between two people aspiring to be Members of Congress, you may not mention your opponent. You may not be critical of the other person in the debate, requiring therefore in this debate for you to spend your time telling the people what it is you stand for, what it is you intend to fight for, what you believe in.

I understand it was a fascinating discussion because it moved from a debate about which is the worst candidate to a debate about ideas, a competition of ideas and issues. I would like to see if we cannot get our political system back to a description of that kind of politics.

Having said all that, I am going to talk a little about the tax cut proposal offered by Senator Dole, not because I think Senator Dole is a bad candidate. I do not. I disagree with the ideas he is proposing, and I am going to describe why. Then I am going to talk about the ideas I think ought to be proposed to make this a better country.

I have said many times and will again now that Senator Dole was a remarkable Senator and contributed a great deal to this country in his public service. I happen to think Jack Kemp was an excellent public servant and has contributed a lot to this country. It is a credible team competing for the Presidency. I happen to disagree with

the central idea on which they are running. I am going to talk a little about it and then talk about what I think we ought to be discussing.

The proposal that is advanced first and foremost is an across-the-board tax cut. It is, 2 months from the election, a proposal that says vote for us because we propose a 15-percent across-the-board tax cut.

That sounds attractive, and if we were not bound by issues like you should not increase the Federal deficit, I would propose a 25- or 50-percent tax cut. Why settle for 15? Why not propose a 50-percent tax cut or 75-percent tax cut? But we are bound by something else. We are bound by a requirement that we have a fiscal policy that is in some reasonable balance.

We are told that a proposal for a 15-percent across-the-board tax cut will result in a substantial benefit to all Americans and a balanced budget as well—a deficit that is coming down to a balance.

I was thinking about that last evening, and I thought I would show my colleagues what some feel is believable in our country.

I receive a lot of mail, as do all Americans. You open your postal box these days, and it is full of all kinds of unsolicited mail. Here is a letter I got from Dorothy Addeao. I do not know Dorothy Addeao from a cord of wood, never met her, never heard of her before. But she wrote to me to say this: "It's my pleasure to be the bearer of glad tidings. In just 5 weeks, we are scheduled to announce Byron L. Dorgan"—that is me—"is the winner of the 1995 \$10 million super prize in Publisher's Clearing House."

Now, it was not that she just wrote to me and said that they were going to announce that I had won \$10 million, the super prize. She also sent me a certificate, and it is stamped, has my name right here. It says, "\$10 million." My number by the way was 00016780.

Then she signed it.

That was not all. I mean, that is pretty improbable, I suppose, that someone would write to me and tell me I won \$10 million.

But I got another letter. This one was from Sweepstakes Priority. They told me that BYRON DORGAN wins a Hawaiian vacation and a new Lexus automobile. They have a number on it, and they said the Lexus automobile is set aside for my use, mine free. I thought that is pretty improbable—you win \$10 million and then a trip to Hawaii and a Lexus.

Then I got a letter from Time magazine, down in Tampa, FL. It says, "The results are in. Byron L. Dorgan"—that is me again—"has won one of our two latest \$1,666,675.00 prizes." And then underneath it says, "Byron L. Dorgan, winner, \$1,666,675.00," and then it says, "payment ready. Elizabeth Matthews." I do not know Elizabeth Matthews from a cord of wood; never met her. But out of the blue she tells me I won \$1.6 million.

If that was not enough, not knowing Ed McMahon or Dick Clark, having never met either, or never having received mail from either, they wrote me and said, "Byron Dorgan, it's confirmed, you are our new \$10,000,000 winner."

All of this for me.

As you can see, I have not opened these letters. We have certain gift rules in the Senate. I think it is a \$50 gift rule, and I felt I did not want to compromise anything here, so I have not mailed this thing in. But it looks to me like we are talking about \$21,600,000, a trip to Hawaii, and a new Lexus.

Improbable? Yes. I think all Americans know what I am talking about. I imagine there are 250 million winners of this \$21 million and the Lexus and the trip to Hawaii. But I suppose that if Dorothy—is that her name? Yes, Dorothy—and Elizabeth and Time magazine and Ed McMahon and Dick Clark believe that I and millions of others will think we have won millions of dollars, I suppose there is a reason to believe, in our political system, that one can propose we will balance the budget by increasing defense spending and proposing substantial across-the-board tax cuts. After all, it has been done before and some believed it before.

It is not much more credible than this. I kind of like Ed McMahon. I have not seen him for a while, but I used to like him on the "Tonight Show."

The proposal of an across-the-board tax cut, which sounds attractive, and I think most people would enjoy having, and that with an across-the-board cut in revenue, you will balance the budget, it could just as well be proposed by Ed McMahon telling us there is an easy way to solve problems. If your family has a deficit problem, you are spending more income than you have, what is the solution? Cut your income.

Let me, if I might, suggest that I think we need to cut our expenditures, and we have, and the deficit has been reduced 4 years in a row; the first time in 40 years, 4 years in a row, the deficit has been reduced. It was cut in half. Was it because those who now propose a tax cut did something to make that happen? No, we did not get one vote to help us do that, not one, not even by accident.

Those of us on this side of the aisle, including some who are no longer here, who lost their jobs because of it, voted to cut Federal spending and, yes, raise some taxes on the higher income people in this country. The result is, since that proposal, a very substantial reduction in the Federal budget deficit. I voted for that.

Was it popular? No. Would it have been politically better to vote against it? Yes, of course. I voted for it, and I am pleased I did because it was the right thing to do. But the deficit is not erased or eliminated. The deficit has come down 4 years in a row. It has been cut in half, but it is not gone and the job is not done. The remainder of the job is to reduce that budget deficit to

zero, to balance the budget, balance what we are bringing in with what we are spending so we are not saddling our children and grandchildren with debt as a result of our consumption today.

That job is not done and that is why these proposals, 60 days before the election, for across-the-board tax cuts sound very attractive but are not going to be good for the American people and good for this country if we really want to balance the Federal budget.

Yesterday we held a hearing in the Senate—the Democratic Policy Committee held a hearing. I want to share with my colleagues some of the testimony at this hearing. Benjamin Friedman, he is the William Joseph Maier professor of Political Economy at Harvard University, Benjamin Friedman says:

The Dole-Kemp proposal is a reprise of a gamble that failed. Our government tried that idea in the 1980's. The result was record-sized budget deficits, borrowing, and higher real interest rates, reduced investment and disappointing productivity. And it left behind a legacy of swollen government debt, a shrunken capital stock, depressed productivity, and a large net balance that we now owe to foreigners.

It is 20 years of testimony telling us why this would not be good for our country.

Dr. Joel Prakken, chairman, macro-economic adviser, in many pages of testimony, tells us the same thing. This is a proposal that does not add up. This is a proposal that will increase the Federal deficit. It does not add up, and it is not good for this country.

Charles Schultze, the Brookings Institution, testifies with exactly the same kind of testimony. First-rate economist, great economist, telling us this does not add up. Joel Prakken, Richard Cogan, all of them say this does not add up.

We are talking about a proposal for a tax cut. I would like to see a tax cut in this country, when we finish the job of balancing the budget. Then we ought to talk about our tax system, and the tax cuts ought to go to working families in this country.

I saw in the paper this morning Jack Kemp. I like Jack. He is a friend of mine, a good guy. "Kemp Records Show Big Jump in Income, Candidate Has Earned \$2 Million a Year Since Leaving Government." No wonder he smiles all the time. I wondered why he is always smiling, always so optimistic. With \$2 million a year, you understand a little bit where people come from who are out there pushing for a flat tax or tax cuts. If you are making \$2 million a year, I suppose you have a substantial interest in that.

But I think, honestly, we would be better off addressing, perhaps, some targeted areas where we might be of help, in education, tax cuts, in some other areas, although I would prefer even to wait on most of those until we have solved the deficit problem completely. Let us not leave this job when it is half done. Let us finish the job of eliminating the budget deficit. This job

is half done. Let us finish the job, and then let us talk about the Tax Code, and there is plenty to talk about in the Tax Code and plenty of changes we ought to make.

Let me just, for a couple of minutes, talk about the things I hope we will hear about in the Presidential campaign, things other than a tax cut. I hope that one of the central questions in this campaign, and it ought to be a central question in the Presidential campaign in this country, is: What about America's education system?

Is there anything that is more important to this country's future than its education system? Does anyone believe America's future is affected by anything more than it is affected by our education system?

Thomas Jefferson said, anyone who believes a country can be both ignorant and free believes in something that never was and never can be. This country ought to aspire and our Presidential contest ought to aspire to have the finest education system in the world and debate policies that will accomplish that.

What kind of policies will accomplish us having the best education system in the world, the feeling that at the end of the day we have sent our kids to the best schools anywhere in the world? There is some evidence that in some areas we have the best schools in the world. If you want to go to world class universities, most of them are in the United States, not elsewhere.

We don't see people boarding planes to get educated elsewhere. America has most of the major world class universities in this country. There is a lot to commend this country's education system, and there is a lot to criticize.

The central question, however, ought to be as we compete with shrewd, tough international competitors for economic growth and jobs and expanded economies in the future—and I am including Japan, Germany, and others—the central question is how do we do that in our education system?

In Japan and Germany and other countries, kids are going to school 240 days a year; in our country, 180 days a year. I can go through a litany of things that concern us relative to the question of competition and whether we are keeping pace in the education system. But I do know this. No one advances this country's education system by believing that we ought to decide to cut back on Pell grants, cut back on guaranteed student loans, decide to underfund the opportunity for kids to get an education.

No one I know does a service by standing in this well of the Senate saying, "By the way, tomorrow is Tax Freedom Day. The burden of paying taxes is now lifted from my shoulders. Hosanna."

I stand up and wonder, why do you consider it a burden to pay taxes to have a school your child can attend. Do you really consider it a burden to send

your kid to school? I happen to consider it an opportunity. Do I like paying taxes? No. Do I believe paying taxes to build good schools to educate my children represents a good investment for me and my country? Absolutely.

I have two kids in school this afternoon, and they are wonderful young children who I want to have the best education in the world. They are in a public school system. It is a good public school system. Both have good teachers, and we do not advance the interests of that education system by tearing down those teachers.

The way you fix an education system, the way an education system can work is if you have a parent who cares about their child's education, a child that is willing to learn and a teacher who really knows how to teach. Those combinations mean that kids advance in our school system and become the very best they can be.

Last evening, I, like a lot of parents, put my children to bed by reading them a story. We do that every evening, but there are a lot of kids in this country, a lot of children in this country who have no one to read them a story. They have no books to read. Some have no bed to sleep in. Some I described before, like David Bright, age 10, a young man who lived in a homeless shelter in New York, told us some can't do well in school because they are hungry. David said, "No child like me should have to put their head down on their desk in the middle of the day at school because it hurts to be hungry."

How do you learn in that environment? Those are the issues we ought to discuss in the Presidential campaign.

What about our education system, not just for kids who are privileged, but for all children? This country does not move ahead by leaving some behind. What do we do about our education system to make it the best in the world and to guarantee that it is available for all Americans?

I think it is interesting that we hear now on the news and read in the newspapers about an athlete who is 7 feet 2 inches tall who can dunk a basketball. He is going to be paid \$115 million over 7 years to play basketball. Do you know what \$115 million will pay for? Nearly 4,000 elementary schoolteachers, for one 7-foot-2-inch basketball player. Think of what historians will understand about that 100 years from now looking back and trying to understand what was our value system.

The point of all this is to say I hope that the Presidential campaign centers not just around an idea about a tax cut that is going to increase the deficit and retard our economic future, but the ideas of education, what do we do about advancing our education system, investing in education, making our education system the best in the world.

How about crime? Let's have a Presidential campaign waged on the issue of what really to do about crime. We have done a lot, and Republicans and Demo-

crats have joined together to do a fair amount on the issue of crime. But much remains to be done, and some simple things can be done.

We ought to distinguish instantly, right now, in both the Federal system and in the State and local criminal justice system, that there is a difference between those who commit violent acts and those who do not. Those who commit violent acts we send to prison in order to keep them away from others, to provide for the safety of other Americans, as well as to punish them.

We ought to decide immediately those who commit violent acts in this country will go to prison and not get out before the end of their term. Period. People who commit violent crimes ought not get time off for good behavior, early release, early parole. People who commit violent crimes in the Federal system and the State and local justice system ought to stay in prison until the end of their term. I can cite chapter and verse about dozens of murders.

In fact, there are 3,000 murders that have recently been committed by people who should have been in jail but let out early to murder 3,000 innocent Americans. We ought to make a decision on dealing with violent criminals in this country in a manner differently than we deal with other criminals.

We ought to have instantly in this country a decision by our entire country that we will put on a computer list the name and the record of everyone who has committed a felony in America. If you go downtown and buy a shirt in the department store, they will run your credit card through a magnetic imager, and they will find out in 20 seconds whether your credit card is good.

There is nowhere in America you can type in the name of an individual and find out if this individual has committed 6, 8, 10 felonies in 5 different States, because we do not have a composite list of criminals who committed felonies in this country. We have a list, the NCIC, at the FBI. It does not contain 80 percent of the records it would have to contain to be an accurate list of an updated computer list of all those who committed felonies in our country. We ought to have that.

Crime ought to be part of the Presidential campaign. How we address crime ought to be the competition of ideas in a Presidential campaign.

Jobs. That also ought to be part of the Presidential campaign. I intend to offer a proposal which I offered before which the Senate has rejected. It is a very simple little proposal.

We have a tax incentive in this country that is \$2.2 billion in tax forgiveness for companies who move American jobs overseas. Now, is there any reason, can anyone sober in this country give me one reason that we ought to have any incentive at all for any company to move jobs from America to a foreign country?

Can anyone give me one reason for that? If so, I would like to hear it. And

if not, we ought to change the Tax Code to stop providing tax incentives for those who move jobs out of this country.

Why does that proposal fail when it comes to the floor of the Senate? Because the biggest corporations in America lobby furiously to keep that tax break. They lobby furiously to keep it, and they are all over this town now rallying to defeat a proposal like that once again.

I hope we will have a discussion about values in the Presidential campaign. In fact, Senator Dole and President Clinton have talked about television, the menu of violence and trash on television that is offered to our children. Does that advance the interests of our children? No. Do I believe in censorship? No, I don't, but I believe in responsibility, and there are things we can do in this country as parents, as communities and, yes, even as a U.S. Senate and, hopefully, as President to deal with this issue of what is television doing in this country to our children.

It is one thing to entertain adults. It is another thing to entertain adults and hurt our children at the same time. You all know the statistics that persuaded a number of us, including my colleagues, Senator CONRAD from North Dakota, Senator SIMON, and others to push a bill providing for a V-chip and to push bills providing for television violence report cards and other issues to deal with this matter. Some cry censorship. It has nothing to do with censorship. I am not interested in censoring. I am interested in providing there be responsibility by people who produce this and send it into our living room and to our children.

Let me just conclude. I wanted to visit a bit today about the tax proposals because a number of Members of the Senate came, in a rather orchestrated attempt today, to make a case for it. I understand the case, and I just disagree with it. I want to just finish with another comment.

I had some town meetings recently during the August break in North Dakota. In the middle of them, I suggested that while we would likely spend a fair amount of time at the town meeting talking about what was wrong, what was broken, what needed fixing, what did not work, and why America was moving backward, I said, let us do something else, just for a few minutes, let us train ourselves to think just for a minute, why do some people talk about building a fence to keep people out of America because too many people want to come here? Why would that be? Because this country is a remarkable beacon of hope for the rest of the people around the world. They see it as a country full of opportunity, and they all want to come here.

If that is the case, we must be a country full of things that work and we must be a country full of good news as well. So I have told the town meetings at times, let us spend the next 30 minutes talking about what works, just for

a moment let us think about what works in this country, what is good in your life, in your home, in your family, in your community, your city, what is good in the Federal Government, what programs work, what makes life better.

It is fascinating, once you start thinking in those terms, how you get people to start evaluating what is of value. You never think about the kind of road system we have in this country. But drive anywhere else in the world, and then drive in most parts of this country and take a look at the transportation system. Mail a letter in Tegucigalpa or Krakow, and then mail a letter in Chicago, and see which postal system gets it there. I mean, I could go through chapter and verse of the discussions.

One woman at a town meeting said to me, "Well, I'll tell you what works, my son's teacher. She called me and had a long discussion with me about the circumstances of my son in her class and really helped us a great deal. He has a wonderful teacher." I said, "Have you called the teacher and told her how you feel about that? You ought to do that." But it is a fascinating thing to discuss, not about what is wrong, but about what is right, not what needs fixing—and we spend almost all of our time on that—but what works in this country.

I hope in the context also of these political campaigns we can engage in a bit of hope and a description of opportunity in a way that emphasizes the good things, not just what is wrong.

I talked about Jack Kemp. Jack Kemp is an effervescent optimist. We need more effervescent optimists talking about the potential of this country and the future of this country. If I did not think that we were going to have a better future and that our best days are still ahead of us, I would hardly have the energy to be in public service. But I, every single day, take a look at my 9-year-old son who trudges off to school now in September, and I think, what a remarkable opportunity it is for us to be here, for him to go to that school, what a remarkable opportunity he is going to have, hopefully in a country that is going to continue to lead the way in this world.

This week, this President took action in Iraq. I know there is a real disconnection. People say, what on Earth do we have to do with Iraq? This country is a world leader, and it will be a world leader, and it must take responsible action in dealing with international outlaws like Saddam Hussein. And we will, it seems to me, under the stewardship of Democrats and Republicans who come together at the right time, believing through aggressive debate we can find better ways and we can find things that at the end of the day when the dust settles that will advance this country's standard of living, we will continue to maintain a country that most people see as the beacon of hope all around the globe.

Mr. President, I have covered a fair amount of ground. And I notice my col-

league from Iowa, Senator GRASSLEY, is here, and other colleagues I believe are coming to speak on other issues. I intend to continue to visit about a couple of these issues next Monday. But with that, I yield the floor. I thank the President for his attention.

#### MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

#### EXPLANATION OF VOTE—SENATE RESOLUTION 288

Mr. GORTON. Mr. President, last evening my vote was the only negative vote on the resolution relating to the President's military intervention earlier this week in Iraq. As there was little if any time last night to explain the reason for that vote, I intend to do it at this time.

It is the conventional wisdom, led perhaps by the President of the United States, that George Bush severely erred in not completing the war in the gulf against Iraq by the total defeat of its armed forces and the replacement of the Saddam Hussein government. Because I did not make such a criticism at the time, I do not join in that criticism now and regard it as essentially irrelevant to the activities of this week.

President Clinton, when he took that office, inherited the situation as it existed then, when that was no longer a real possibility. Since taking office, however, President Clinton's policies have caused the deterioration, if not the entire unraveling, of the coalition that was put together against Iraq at the time of the war in the gulf. Most particularly, his administration's indifference to the peculiar burdens imposed upon our ally, Turkey, and the particular problems and challenges that it faces, have caused us to be in a position in which we have been unable to use our bases in that country for any kind of response to Iraq. In fact, the coalition has unraveled to such an extent that we were not permitted to use the bases of any of our allies other than the United Kingdom in that response.

Earlier this summer we totally and completely ignored an incursion by Iranian forces, aimed to support its Kurdish partisans, into Iraq, across an international border. Earlier this summer we completely ignored Iraq's defiance of a U.N. search for prohibited weapons, both chemical and nuclear in nature.

Nevertheless, we did respond in a military fashion to a contest between Iraqi-backed Kurds and Iranian-backed Kurds earlier this week, and we responded, Mr. President, in a totally inappropriate fashion.

It seems to this Senator that at the time of the recent Iraqi incursion in support of its own faction in Kurdistan, we had essentially two choices: We

could have made the choice that we have no dog in that fight, that there was no favorite in a contest between a group backed by Iran and a group backed by Iraq. On the other hand, we could have responded militarily by showing that aggression does not pay. Under those circumstances, however, the only appropriate military response would be one which would exact a price substantially greater than the hoped-for goals of the aggression itself on the part of Iraq.

We did neither. We responded to this fight among Kurdish partisans in a way that could not possibly help the victims of that Iraqi aggression. In fact, we clearly stated that we were not attempting to reverse what Saddam Hussein was doing in the northern part of his own country.

The net result is this: The net result is that Iraq has regained control over much of Iraqi Kurdistan. It has slaughtered its rebels, many of whom were under our implicit protection and have been abandoned by us. It has shown the United States to be a paper tiger. And what cost has it paid, Mr. President? A handful of radar sites.

We have been abandoned by all of our allies in the Middle East, none of whom was willing to publicly support our military response. We have been repudiated by France with respect to our new no-flight zone. Our President has now terminated the military adventure and has proclaimed victory.

Mr. President, a few more victories like this and we will be announcing a no-flight zone over Riyadh.

The best analogy I can think of is this one: It is as if the Mayor of the District of Columbia was warned of an incipient drug war in some part of this city and expressed severe warnings against any violence in connection with that drug war. Faced with great violence and a number of murders, the Mayor then imposed \$100 fines on each one of the murderers and announced that the drug war was over and that the streets of Washington, DC, were safe. That, in effect, has been what our response was.

Mr. President, the United States has been defeated and humiliated. We have added to the instability of the Middle East and have whetted Saddam Hussein's appetite for further adventures.

No consultation, no advance notification was given to any Member of Congress in connection with this adventure. Under the circumstances, Mr. President, I do not believe that any resolution of support, even one so cautious, so reluctant, so absent in praise as the one passing last night was warranted.

I believe that within a short period of time, a majority of my colleagues will wish that they had voted the way in which I voted last night. It was an inappropriate resolution, an inappropriate response to an inappropriate action on the part of the President of the United States.



## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, September 5, the Federal debt stood at \$5,225,564,391,083.90.

One year ago, September 5, 1995, the Federal debt stood at \$4,968,613,000,000.

Five years ago, September 5, 1991, the Federal debt stood at \$3,623,548,000,000.

Ten years ago, September 5, 1986, the Federal debt stood at \$2,112,803,000,000. This reflects an increase of more than \$3,112,761,391,083.90 during the 10 years from 1986 to 1996.

## MESSAGE FROM THE HOUSE

At 1:34 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it request the concurrence of the Senate:

H.R. 3308. An act to amend title 10, United States Code, to limit the placement of United States forces under United Nations operational or tactical control, and for other purposes.

H.R. 3719. An act to amend the Small Business Act and Small Business Investment Act of 1958.

## MEASURE REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 3308. An act to amend title 10, United States Code, to limit the placement of United States forces under United Nations operational or tactical control, and for other purposes; to the Committee on Armed Services.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3870. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of two rules including one entitled "Approval and Promulgation of Implementation Plans; Commonwealth of Virginia—1990 Base Year Emission Inventory," (FRL5603-5) received on September 3, 1996; to the Committee on Environment and Public Works.

EC-3871. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon," (FV96-956-1FR) received on August 28, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3872. A communication from the Assistant Comptroller General (Health, Education, and Human Services Division), U.S. General Accounting Office, transmitting, pursuant to law, a report entitled "VA Health Care: Travis Hospital Construction Project Is Not Justified"; to the Committee on Appropriations.

EC-3873. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94-10; to the Committee on Appropriations.

EC-3874. A communication from the Secretary of Defense, transmitting, the notice of

a retirement; to the Committee on Armed Services.

EC-3875. A communication from the Secretary of Defense, transmitting, the notice of a retirement; to the Committee on Armed Services.

EC-3876. A communication from the Secretary of Defense, transmitting, the notice of a retirement; to the Committee on Armed Services.

EC-3877. A communication from the Secretary of Defense, transmitting, the notice of a retirement; to the Committee on Armed Services.

EC-3878. A communication from the Secretary of Defense, transmitting, the notice of a retirement; to the Committee on Armed Services.

EC-3879. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on property transfer; to the Committee on Armed Services.

EC-3880. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report on the Department of Defense Executive Skills Training Program; to the Committee on Armed Services.

EC-3881. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report on improved access to military health care for covered beneficiaries entitled to Medicare; to the Committee on Armed Services.

EC-3882. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-3883. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-3884. A communication from the Assistant Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, a rule entitled "Blocked Person, Specially Designated Nationals, Specially Designated Terrorists, Specially Designated Narcotics Traffickers, and Blocked Vessels; Correction and Removal of Entry," received on August 19, 1996; to the Committee on Foreign Relations.

EC-3885. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report entitled "Statements of Antitrust Enforcement Policy in Health"; to the Committee on the Judiciary.

EC-3886. A communication from the Assistant Attorney General, Office of Justice Programs, Department of Justice, transmitting, the report of a rule entitled "Grants to Encourage Arrest Policies," (RIN1121-AA35) received on September 3, 1996; to the Committee on the Judiciary.

EC-3887. A communication from the Assistant Attorney General, Office of Justice Programs, Department of Justice, transmitting, the report of a rule entitled "Motor Vehicle Theft Prevention Act Program Regulations," (RIN1121-AA38) received on September 3, 1996; to the Committee on the Judiciary.

EC-3888. A communication from the Secretary of Labor, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-3889. A communication from the Director of the Office of Regulations Management, Office of the General Counsel, Department of Veterans' Affairs, transmitting, pursuant to law, a rule entitled "Schedule for Rating Disabilities," (RIN2900-AE94) received on September 4, 1996; to the Committee on Veterans' Affairs.

EC-3890. A communication from the Assistant Secretary for Fish and Wildlife and

Parks, Department of the Interior, transmitting, pursuant to law, a rule entitled "Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1996-97 Early Season," (RIN1018-AD69) received on August 27, 1996; to the Committee on Indian Affairs.

EC-3891. A communication from the Office of the Assistant Secretary, Administration For Children and Families, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled "Administration for Native Americans Appeals," (RIN0970-AB37) received on August 19, 1996; to the Committee on Indian Affairs.

EC-3892. A communication from the President of the United States, transmitting, pursuant to law, the report of determinations relative to the North American Free Trade Agreement Implementation Act; to the Committee on Finance.

EC-3893. A communication from the Chief Counsel of the Bureau of the Public Debt, Department of the Treasury, transmitting, pursuant to law, a rule concerning regulations governing book-entry treasury bonds, notes, and bills received on August 27, 1996; to the Committee on Finance.

EC-3894. A communication from the Secretary of Veterans' Affairs, transmitting, a draft of proposed legislation entitled "The Veterans' Medicare Reimbursement Model Project Act of 1996"; to the Committee on Finance.

EC-3895. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, a rule relative to distributions by U.S. corporations, (RIN1545-AU23) received on August 13, 1996; to the Committee on Finance.

EC-3896. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the report on trade between the U.S. and China, the Successor States to the Former Soviet Union, and other Title IV Countries during January 1 through March 31, 1996; to the Committee on Finance.

EC-3897. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a rule relative to the Medicare and Medicaid Programs, (RIN0938-AF74) received on September 4, 1996; to the Committee on Finance.

EC-3898. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a rule relative to the Medicare Program, (RIN0938-AH34) received on August 29, 1996; to the Committee on Finance.

EC-3899. A communication from the Director of the Office of Surface Mining (Reclamation and Enforcement), Department of the Interior, transmitting, pursuant to law, two rules including a rule entitled "The Virginia Regulatory Program," (VA108FOR, OH238FOR) received on September 3, 1996; to the Committee on Energy and Natural Resources.

EC-3900. A communication from the Director of the Office of Surface Mining (Reclamation and Enforcement), Department of the Interior, transmitting, pursuant to law, a rule entitled "The Utah Regulatory Program," (UT034) received on September 3, 1996; to the Committee on Energy and Natural Resources.

EC-3901. A communication from the Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a rule entitled "Lassen Volcanic National Park," (RIN1024-AC52) received on August 27, 1996; to the Committee on Energy and Natural Resources.

EC-3902. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the comprehensive status of Exxon and stripper well oil overcharge funds for the period January 1 through March 31, 1996; to the Committee on Energy and Natural Resources.

EC-3903. A communication from the Acting Assistant Secretary of the Interior for Land and Minerals Management, transmitting, pursuant to law, the report on royalty management and delinquent account collection activities for fiscal year 1995; to the Committee on Energy and Natural Resources.

EC-3904. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a Decision Document; to the Committee on Energy and Natural Resources.

EC-3905. A communication from the Deputy Executive Director and Chief Operating Officer of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, a rule entitled "Allocation of Assets in Single-Employer Plans," received on August 19, 1996; to the Committee on Labor and Human Resources.

EC-3906. A communication from the Chairman of the U.S. Railroad Retirement Board, transmitting, a report relative to the Special Management Improvement Plan; to the Committee on Labor and Human Resources.

EC-3907. A communication from the Board Members of the U.S. Railroad Retirement Board, transmitting, a draft of proposed legislation entitled "The Railroad Unemployment Insurance Act Debt Collection Improvement Act of 1996"; to the Committee on Labor and Human Resources.

EC-3908. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Drug Abuse and Drug Abuse Research"; to the Committee on Labor and Human Resources.

EC-3909. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a rule entitled "Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents," received on August 23, 1996; to the Committee on Labor and Human Resources.

EC-3910. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, a rule concerning smokeless tobacco received on September 3, 1996; to the Committee on Commerce, Science, and Transportation.

EC-3911. A communication from The Assistant Secretary of Legislative Affairs of the U.S. Department of State, transmitting, pursuant to law, a report relative to a rule entitled "Fishermen's Protective Act Guaranty Fund Procedures," received August 29, 1996; to the Committee on Commerce, Science, and Transportation.

EC-3912. A communication from the Acting Program Management Officer of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule concerning fisheries of the Northeastern U.S. (RIN0648-AH05) received August 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC-3913. A communication from the Acting Program Management Officer of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule concerning fisheries of the Caribbean, (RIN0648-AH86) received August 29, 1996; to the Committee on Commerce, Science, and Transportation.

EC-3914. A communication from the Director of the Office of Fisheries Conservation

and Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule concerning fisheries of the Caribbean received on August 29, 1996; to the Committee on Commerce, Science, and Transportation.

EC-3915. A communication from the Director of the Office of Fisheries Conservation and Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a rule concerning Atlantic Tuna Fisheries received on August 27, 1996; to the Committee on Commerce, Science, and Transportation.

EC-3916. A communication from the Acting Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled "Limes and Avocados Grown in Florida; Suspension of Certain Volume Regulations and Reporting Requirements," received September 5, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3917. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Environmental Compliance and Restoration Program"; to the Committee on Commerce, Science, and Transportation.

EC-3918. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the evaluation of oil tanker routing; to the Committee on Commerce, Science, and Transportation.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself and Mr. KYL):

S. 2058. A bill to amend chapter 3 of title 28, United States Code, to provide for 11 circuit judges on the United States Court of Appeals for the District of Columbia Circuit; to the Committee on the Judiciary.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Res. 289. A resolution electing Gregory S. Casey, of Idaho, as the Sergeant at Arms and Doorkeeper of the Senate; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. KYL):

S. 2058. A bill to amend chapter 3 of title 28, United States Code, to provide for 11 circuit judges on the U.S. Court of Appeals for the District of Columbia Circuit; to the Committee on the Judiciary.

#### UNITED STATES COURT OF APPEALS LEGISLATION

• Mr. GRASSLEY. Mr. President, I introduce legislation which will abolish the 12th seat on the U.S. Court of Appeals for the D.C. circuit. This is the right thing to do. I have studied the D.C. circuit in depth for over a year now, and I can confidently conclude that the D.C. circuit does not need 12 judges.

Last year, I chaired a hearing before the Judiciary Subcommittee on administrative oversight and the courts. At the hearing, Judge Lawrence Silberman—who sits on that court—testified that 12 judges were just too many. According to Judge Silberman, when the D.C. circuit has 12 judges, there isn't enough work to go around. In fact, the main courtroom in the D.C. courthouse does not fit 12 judges. When there are 12 judges, special arrangements have to be made when the court sits in a en banc capacity.

Judge Silberman's testimony is supported by the steady decrease in new cases filed in the D.C. circuit. Since 1985, the number of new case filings in the D.C. circuit has declined precipitously. Even those who support filling the 12th seat admit this. And the D.C. circuit is only entitled to a maximum of 10 judges under the judicial conference's formula for determining how many judges should be allotted to each court.

So the case against filling the 12th seat is compelling. Now that Judge Buckley on the D.C. circuit has taken senior status, we, in Congress, have a unique opportunity. Let's abolish the 12th seat.

Abolishing the 12th seat is completely nonpartisan. If the 12th seat is abolished, no President—Democrat or Republican—could fill it. As long as the 12th seat is open, the temptation to nominate someone to fill the seat will be overwhelming—even with the outrageous cost to the American taxpayer.

According to the Federal judges themselves, the total cost to the American taxpayer for a single article 3 judge is about \$18 million. That's not chump change. That's something to look at. That's real money we can save.

Here in Congress, we have downsized committees and eliminated entirely important support agencies like the Office of Technology Assessment. The same is true of the executive branch. Right now, Congress is considering the elimination of whole Cabinet posts. It is against this backdrop that, as chairman of the subcommittee with jurisdiction over the courts, I have been looking for ways to make sure that precious taxpayer dollars are spent wisely. Eliminating the 12th seat is an important step in the right direction.

While some may incorrectly question Congress' authority to look into these matters, this legislation is, in fact, on firm constitutional ground. Article 3 of the Constitution gives Congress broad authority over the lower Federal courts. Also, the Constitution gives Congress the power of the purse.

Throughout my career, I have taken this responsibility very seriously. I, too, am a taxpayer, and I want to make sure that taxpayer funds aren't wasted.

Some may say that Congress should let judges decide how many judgeships should exist and how they should be allocated. I agree that we should defer to

the Judicial Conference to some degree. However, there have been numerous occasions in the past where Congress has added judgeships without the approval of the Judicial Conference. In 1990, the last time we created judgeships, the Congress created judgeships in Delaware, the District of Columbia, and Washington State without the approval of the Judicial Conference. In 1984, when the 12th judgeship at issue in this hearing was created—Congress created 10 judgeships without the prior approval of the Judicial Conference. It is clear that if Congress can create judgeships without judicial approval, then Congress can leave existing judgeships vacant or abolish judgeships without judicial approval. It would be illogical for the Constitution to give Congress broad authority over the lower Federal courts and yet constrain Congress from acting unless the lower Federal courts first gave prior approval.

In conclusion, Mr. President, I ask my colleagues to support this legislation and pass it quickly. I hope that the President will support and sign this bill.●

#### ADDITIONAL COSPONSORS

S. 773

At the request of Mrs. KASSEBAUM, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 773, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for improvements in the process of approving and using animal drugs, and for other purposes.

S. 1386

At the request of Mr. BURNS, the names of the Senator from Virginia [Mr. WARNER] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 1386, a bill to provide for soft-metric conversion, and for other purposes.

S. 1554

At the request of Mr. COCHRAN, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 1554, a bill to amend the Fair Labor Standards Act of 1938 to clarify the exemption for houseparents from the minimum wage and maximum hours requirements of that Act, and for other purposes.

#### SENATE RESOLUTION 289—ELECTING THE SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 289

*Resolved*, That Gregory S. Casey, of Idaho, be, and he is hereby, elected Sergeant at Arms and Doorkeeper of the Senate.

#### AMENDMENTS SUBMITTED

##### THE OLDER AMERICANS INDIAN TECHNICAL AMENDMENTS ACT

##### MCCAIN AMENDMENT NO. 5203

Mr. MCCAIN proposed an amendment to the bill (S. 1972) to amend the Older Americans Act of 1965 to improve the provisions relating to Indians, and for other purposes; as follows:

On page 2, line 13, insert "or near" after "on".

##### THE DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 1997

##### GRAHAM AMENDMENT NO. 5204

Mr. GRAHAM submitted an amendment intended to be proposed to the bill, H.R. 3814, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1997, and for other purposes; as follows:

At the end of the bill, insert after the last section (preceeding the short title) the following new section:

SEC. . Of the funds appropriated in this Act under the heading "OFFICE OF JUSTICE PROGRAMS—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE", not more than ninety percent of the amount to be awarded to an entity under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 shall be made available to such an entity when it is made known to the Federal official having authority to obligate or expend such funds that the entity that employs a public safety officer (as such term as defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide such a public safety officer who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits that are paid by the entity at the time of retirement or separation.

##### VA BENEFITS TO CHILDREN OF VIETNAM VETERANS WITH SPINA BIFIDA

● Mr. JEFFORDS. Mr. President, today Senator DASCHLE has brought before us an issue that provokes much emotion and raises more questions about the use of agent orange in Vietnam. Senator DASCHLE amendment would treat and compensate Vietnam veterans' children with spina bifida, a terrible defect of the neural tube, the embryonic structure that extends from the spinal cord to the brain. Compensation would entail a monthly monetary allowance, depending on the degree of the condition. About 2,700 children with spina bifida are estimated to be

entitled to care and compensation under this amendment. The amendment has the support of the Vietnam Veterans of America, the American Legion and the Veterans of Foreign Wars.

Senator DASCHLE's amendment responds to the administration's announcement in April, following the release of a National Academy of Sciences report in March, listing spina bifida as having limited/suggestive evidence of an association with herbicidal exposure in Vietnam. The VA does not currently have the authority to extend health care or compensatory benefits to the children of veterans. This amendment would provide that authority.

I have fought for years for equitable treatment for Vietnam veterans afflicted with conditions associated with agent orange exposure. I was very pleased that in 1991 Congress passed the Agent Orange Act. Under this act if there is adequate evidence of a link between military service in Vietnam and a medical conditions, benefits are provided by the Veterans' Administration.

Opponents of the Daschle amendment argue that the evidence supporting this amendment is fragile. I have looked at the evidence myself and I must admit, I cannot disagree with them. The estimates of how many children will be affected by this legislation are not firm because there are no reliable means of determining if a parent of a spina bifida child actually served in an area affected by agent orange. The evidence may not improve much because of the inadequacies of the records kept by the Department of Defense [DOD] in tracking veterans during their service in Vietnam as well as the rate of birth defects in their children. Thankfully, it seems the DOD avoided this for veterans of the gulf war and, with the Persian Gulf Registry, for their children.

Another cause for concern in supporting this amendment is the precedent it sets by providing a new entitlement to the children of veterans. Some may use this amendment as a tool to obtain Federal compensation to other veterans' children suffering from a medical illness and Congress should avoid providing entitlements to more groups without some evidence.

In crafting statutes for presumptive treatment for agent orange veterans, I believed treatment is necessary because the Government has an obligation to treat ill veterans if reasonable evidence suggests there is a causal relationship between service and a medical condition. By definition, presumption is subject to question. Countless families of Vietnam veterans have suffered because of agent orange. The lack of irrefutable scientific evidence had long delayed many of the benefits to which Vietnam veterans are entitled. This amendment will provide assistance to some of these families and, although will not take away the pain caused by spina bifida, it will at least ease the financial burden. This is the

least we can do for this group of veterans that have suffered so much already.●

#### OSHA VIOLATIONS BY FEDERAL CONTRACTORS

● Mr. SIMON. Mr. President, this Monday we celebrated the 114th annual Labor Day, honoring working Americans for their daily contributions to the most productive economy in the world. Also on Monday, we learned from a new General Accounting Office [GAO] report that the U.S. Government has been routinely awarding billions of dollars in Federal contracts to companies that have repeatedly and flagrantly endangered the health and safety of their workers.

According to the report, entitled "Occupational Safety and Health: Violations of Safety and Health Regulations by Federal Contractors," the Federal Government in fiscal year 1994 awarded \$38 billion in contracts to companies that were found to have committed significant Occupational Safety and Health Act [OSHA] violations in that fiscal year. In fiscal year 1994, more than 1 in 5 Federal contract dollars went to 261 companies that were found to have committed significant OSHA violations during that fiscal year.

The violations cited in the GAO report were not merely technical errors or minor infractions. On the contrary, 35 fatalities occurred at workplaces of the cited companies during the period covered by the report. These fatalities included, just to cite examples from Illinois and the greater Chicago region, that of a Danville, IL worker who was sucked into a grain mill he was cleaning, and the deaths of two workers who were trapped in a fire at an Inland Steel Co. plant in East Chicago, Indiana. A supervisor involved in the latter incident committed suicide a few days after his coworkers had been killed.

In preparing this report, the GAO investigators confined themselves to cases involving significant initial proposed penalties, defined as those of \$15,000 or more. This definition narrowed the study to the most serious 3 percent of OSHA violations discovered during fiscal year 1994.

Eighty-eight percent of the violations covered by the study involved at least one serious violation that posed a risk of death or physical harm to workers; 69 percent of the violations were deemed to have been willful.

This report demonstrates that the Federal Government is not doing as much as it could to improve the worker health and safety standards of Federal contractors. The Federal Government has enormous contracting power: 22 percent of the entire U.S. work force is employed by Federal contractors. The Federal Government ought to use this power to encourage companies it contracts with to maintain high standards for worker safety and health.

We already hold Federal contractors to high standards in a number of dif-

ferent areas. For example, Federal contractors must comply with Executive Order 11246, which requires them to develop affirmative action programs for their workers. Similarly, the Davis-Bacon and Service Contract Acts require Federal contractors to pay area-prevailing wages when performing Federal construction and service contracts. Given these requirements, it is not unreasonable for Federal contractors also to be held to a higher standard in the area of occupational safety and health.

To address this issue, I have introduced legislation that would give the Secretary of Labor the authority to debar firms that show a pattern and practice of OSHA violations from receiving Federal contracts for up to 3 years. This legislation, the Federal Contractor Safety and Health Enforcement Act (S. 781), would provide strong new incentives for firms that contract with the Federal Government to maintain high safety and health standards.

Even without legislation, there are steps the Federal Government can take to facilitate the exchange of information between OSHA and agency awarding and debarring officials to help improve contractor OSHA compliance. The GAO report recommends that OSHA develop policies and procedures, in consultation with the General Services Administration [GSA] and the Interagency Committee on Debarment and Suspension, to first, ensure that agencies share health and safety information on Federal contractors; second, determine whether and how it will consider a company's status as a Federal contractor in setting priorities for workplace inspections; and third, assess the appropriateness of also using this information with respect to companies receiving other forms of Federal assistance, such as grants and loans.

The GAO noted that the development of such information-sharing between agencies "would increase the likelihood that a company's health and safety record [will be] considered in decisions to award a contract or to debar or suspend an existing contractor." The report also noted that, under the Contract Work Hours and Safety Standards Act, OSHA already has authority to debar companies specifically for safety and health violations, but that this authority is seldom invoked because of the high cost of litigating debarment decisions. As the use of contractor debarment for safety and health violations becomes more common and courts develop a clear set of guidelines for assessing debarment decisions, we can expect that such litigation costs would decline.

American taxpayers should not be expected to foot the bill for lucrative contracts to companies that flagrantly and willfully disregard the health and safety of their employees. We should put safeguards into place to ensure that Federal contractors are held to high standards of worker safety and health. Rather than using the power of

the Federal treasury to reward lawbreakers, we should use that power to reward firms that demonstrate a strong commitment to the safety and wellbeing of their employees.

I have no personal knowledge of the health and safety records of the Federal contractors discussed in the GAO report. The list that follows was compiled by the GAO. It contains the names of selected Federal contractors with significant OSHA violations and their corporate headquarters.

The list follows:

PARENT COMPANY AND HEADQUARTERS  
 Aluminum Co. of America, Pittsburgh, PA.<sup>1</sup>  
 B.R. Group, Inc., Orange, MA.<sup>23</sup>  
 B.T.R. PLC (All-Steel, Inc.), Stamford, CT.<sup>1</sup>  
 Bethlehem Steel Corp., Bethlehem, PA.<sup>1</sup>  
 Biocraft Laboratories, Inc., Fair Lawn, NJ.<sup>1</sup>  
 Blaze Construction Co., Browning, MT.<sup>1</sup>  
 The Boeing Co., Seattle, WA.<sup>1</sup>  
 Boise Cascade Corp., Boise, ID.<sup>12</sup>  
 Chrysler Corp., Detroit, MI.<sup>2</sup>  
 Clean Harbors Environmental Services Inc., Quincy, MA.<sup>2</sup>  
 ConAgra, Inc., Omaha, NE.<sup>1</sup>  
 Cooper/T Smith Stevedoring, Inc., Houston, TX.<sup>13</sup>  
 Crowley Maritime Corp., Oakland, CA.<sup>1</sup>  
 Crown Central Petroleum Corp., Baltimore, MD.<sup>1</sup>  
 Dainippon Ink & Chemicals, Inc., (Sun Chemical), Cincinnati, OH.<sup>13</sup>  
 Dana Corp., Grand Haven, MI.<sup>1</sup>  
 Dell Computer Corp., Austin, TX.<sup>1</sup>  
 Federal Paper Board Co., Montvale, NJ.<sup>12</sup>  
 Ford Motor Co., Dearborn, MI.<sup>12</sup>  
 Fulcrum II Limited Partnership (Bath Iron Works Corp.), New York, NY.<sup>2</sup>  
 General Motors Co., Detroit, MI.<sup>12</sup>  
 Georgia-Pacific Corp., Atlanta, GA.<sup>1</sup>  
 Imperial Americas, Wilmington, DE.<sup>1</sup>  
 International Paper Co., Purchase, NY.<sup>12</sup>  
 Kohler Co. Mill Division, Kohler, WI.<sup>2</sup>  
 Kone Holding Inc. (Montgomery Elevator), Louisville, KY.<sup>1</sup>  
 Lockheed-Martin Corp., Calabasas, CA.<sup>12</sup>  
 National Beef Packing Co. LP, Liberal, KS.<sup>2</sup>  
 National Fruit Produce Co., Winchester, VA.<sup>2</sup>  
 National Health Labs Holdings, Loyola, CA.<sup>2</sup>  
 P.M. Holdings Corp. (Purina Mills, Inc.), St. Louis, MO.<sup>1</sup>  
 Pepsico, Inc. (Frito-Lay, Inc.), Purchase, NY.<sup>1</sup>  
 Rhone-Poulenc, Inc., France.<sup>12</sup>  
 Roadway Express, Inc., Akron, OH.<sup>1</sup>  
 Salvation Army, Alexandria, VA.<sup>1</sup>  
 Sears Roebuck & Co., Hoffman Estates, IL.<sup>1</sup>  
 Shell Oil Co., Houston, TX.<sup>12</sup>  
 Simplot J.R. Co. (S.S.I. Food Services, Inc.), Boise, ID.<sup>2</sup>  
 Stone Container Corp., Chicago, IL.<sup>1</sup>  
 Tenneco Packaging, Inc. (Packaging Corp. of America), Houston, TX.<sup>1</sup>  
 Trident Seafoods Corp., Seattle, WA.<sup>1</sup>  
 Trinova Corp. (Vickers, Inc.), Omaha, NE.<sup>13</sup>  
 Tyco International, Ltd. (Allied Tube & Conduit Co.), Exeter, NH.<sup>12</sup>  
 U.A.L. Corp. (United Airlines), Arlington Heights, IL.<sup>1</sup>  
 Union Camp Corp., Wayne, NJ.<sup>1</sup>  
 United Parcel Service Amer., Inc., Atlanta, GA.<sup>12</sup>  
 Whirlpool Corp., Benton Harbor, MI.<sup>1</sup>

<sup>1</sup> Assessed significant proposed penalties (\$15,000 or more) in more than one inspection closed in fiscal year 1994.

<sup>2</sup>Assessed proposed penalty of \$100,000 or more for safety and health violations.

<sup>3</sup>The GAO could not determine the parent company headquarters, but the location where the violation occurred is provided.

Source: General Accounting Office.●

# LOUIS ELIAS, GABRIEL W. KASSAB, AND WILLIAM H. MORGAN—THE MARCH OF DIMES 1996 FAMILY OF THE YEAR

● Mr. ABRAHAM. Mr. President, on September 25, 1996, the March of Dimes will honor Elias Brothers Restaurants executives Louis Elias, Gabriel W. Kassab, and William H. Morgan as the recipients of the 1996 Family of the Year Award. Established in 1993, this award is presented annually to a family whose outstanding commitment and support of the March of Dimes deserves recognition. And without question, these three members of the Elias Brothers family are duly deserving of this honor.

Louis Elias, founder and chairman of the board of Elias Brothers Restaurants, has a distinguished past as a community servant. After 4 years as a city councilman, Mr. Elias served as mayor of Hazel Park from 1953 to 1961. He has also received the highest honor of knight commander in the Order of St. Ignatius of Antioch and was also knighted into the most exclusive philanthropic organization in the world, the Knights of Malta, in December 1982.

Gabriel Kassab, president of Elias Brothers Restaurants, has for years dedicated his time and energies to helping others. He has served as a member of the executive board of the Detroit Council of the Boy Scouts of America, president of St. George Orthodox Church, president of the Michigan and National Restaurant Associations, and as a member of the advisory board of Southfield's Providence Hospital.

William Morgan, senior executive vice president of Elias Brothers Restaurants and Big Boy International, also has a distinguished list of public service efforts to his credit. He is past president of the Greater Rochester Chamber of Commerce and the Clinton Valley Council of the Boy Scouts of America, and past chairman of the Rochester Crittenton Hospital Development Council. Mr. Morgan today sits on the executive board of the Michigan State University Development Council.

All three of these men have remained dedicated over the years to the generous support of the efforts of the March of Dimes. The Elias Brothers family has committed itself to the cause of preventing birth defects, and with the extraordinary contributions of Louis Elias, Gabriel Kassab, and William Morgan, our country has moved that much closer to the realization of this noble and important goal. On this special occasion, I offer my congratulations to each of these civic leaders and to the March of Dimes. I also offer my thanks, on behalf of the entire State of Michigan, for the countless number of children's lives they have touched.●

## THE DRIVE-THROUGH DELIVERIES AMENDMENT

● Mr. DORGAN. Mr. President, I want to take a moment to say how pleased I am that the Senate yesterday passed an amendment offered by my colleague, Senator BRADLEY, that will ensure that mothers and their newborn babies get appropriate care before being discharged from the hospital.

Senator BRADLEY's amendment would curb the alarming trend toward rushing new mothers and babies out of the hospital nearly immediately. Many health insurers are requiring new mothers and their newborn babies to be discharged from the hospital as early as 8 to 24 hours after delivery. This problem is particularly pressing and growing in the western United States, where 74 percent of the women who gave birth without complications were sent home within 24 hours of delivery, a sharp increase from the 54-percent figure in 1991. This trend toward shorter hospital stays is putting the health of babies and their mothers at risk.

Under Senator BRADLEY's amendment, insurance companies would be required to pay for a minimum 48-hour stay for mother and child for a vaginal delivery and a minimum 96-hour stay for a caesarean section. This is the amount of time that has long been recommended by medical profession guidelines, and this amendment is supported by the American College of Obstetricians and Gynecologists.

I received a letter last year from a North Dakota grandmother whose infant grandson became seriously ill shortly after being quickly discharged from the hospital. Within hours of being sent home, these young parents had to rush their child back to the hospital with a 102-degree temperature. Fortunately, that little boy is now OK, but as you can imagine, this was a very frightening, and potentially life-threatening, experience.

I thought the questions this grandmother asked really got to the heart of this issue, and I want to read a bit of her letter. She wrote, "How much longer is the almighty dollar going to be the deciding factor in our children's lives? Since when do insurance company executives and accountants know more about life and death matters than medical people?"

Our country can no longer afford to let money, rather than the health needs of mothers and babies, be our paramount concern. Physicians and parents, not insurance bureaucrats, should be the ones deciding when mother and child are ready to go home.

We do need to control health care costs, but we cannot lose sight of the fact that providing high quality health care should be our top priority. And since one recent study has found that infants discharged less than 48 hours after delivery face a 70-percent higher chance that they will require an emergency room visit, which is one of the most expensive settings for care, I believe this amendment will actually

help reduce health care costs in the long run.

Again, I want to thank Senator BRADLEY for his leadership in bringing this issue to a vote, and I am glad to lend my support as a cosponsor to his effort.●

## DR. RAYMOND M. CONTESTI—THE MARCH OF DIMES' 1996 ALEXANDER MACOMB CITIZEN OF THE YEAR

● Mr. ABRAHAM. Mr. President, on September 25, 1996 the March of Dimes will honor Clintondale Community School District Superintendent Dr. Raymond M. Contesti as its 1996 Alexander Macomb Citizen of the Year. Established in 1984, this award is presented annually to "deserving individuals who have demonstrated outstanding contributions and commitment to improving the quality of life in his/her community, the county, and the State of Michigan."

It would be difficult, if not impossible, to find a community servant more deserving of this recognition. In addition to his duties as superintendent, Dr. Contesti is currently president of the board of trustees of the Mount Clemens General Hospital, a member of the board of directors of M.C.G. Telesis, and a member of the Macomb/St. Clair Private Industry Council. In previous years he has held a number of civic posts within Clinton Township, including service on the board of trustees, zoning board of appeals, parks and recreation committee, Junior Chamber of Commerce, planning commission, civic center committee, and much more.

Dr. Contesti's dedication to public service has been recognized by numerous local institutions. In 1994, the Clinton Valley Boy Scouts named him their distinguished citizen of the year. In 1995, the M.C.G. Foundation named Dr. Contesti their citizen of the year.

Continuing in this trend, in 1996 Dr. Contesti will again be commended as citizen of the year, by an equally worthwhile institution, the March of Dimes. For his selfless commitment to his fellow citizens Raymond Contesti is more than deserving of the accolades that come his way. I salute him for his public service, and applaud the March of Dimes for choosing such a deserving figure on whom to bestow this honor.●

## IN HONOR OF KITE SOCIETY OF WISCONSIN WEEK

● Mr. KOHL. Mr. President, it gives me great pleasure to announce that this year the 18th annual Frank Mott Memorial Kite Festival will be held on September 14 in Milwaukee, WI. Kite flying is one of the most beautiful and relaxing hobbies around. Many of us can still remember when we were children, building our first kite and watching with excitement as it became airborne. Today children of all ages can experience this thrill again during Kite

Society of Wisconsin Week, which will take place the week of September 9–15, 1996.

Frank Mots was a kite flying enthusiast, and it was in his memory that the Kite Society of Milwaukee was created in 1976. The festival that bears his name was founded in 1978 and has drawn people from around the country every year. I invite everyone to celebrate this event on September 14 and take some time out to enjoy the simple pleasures of kite flying. The Frank Mots Memorial Kite Festival has something for everyone, and I am proud of the Kite Society's accomplishments. ●

JEANNE O. BUSSE—THE MARCH OF DIMES' 1996 ALEXANDER MACOMB CITIZEN OF THE YEAR

● Mr. ABRAHAM. Mr. President, on September 25, 1996, the March of Dimes will honor community activist Jeanne O. Busse as its 1996 Alexander Macomb Citizen of the Year. Established in 1984, this award is presented annually to "deserving individuals who have demonstrated outstanding contributions and commitment to improving the quality of life in his/her community, the county, and the State of Michigan."

As a community servant, Jeanne Busse has fulfilled this criteria and then some. The litany of positions Mrs. Busse has held over the years is surpassed only by the list of awards that have been showered upon her. Her years of commitment to her church, St. Anne Parish in Warren, includes a stint as president of the Council of Catholic Women for the Archdiocese of Detroit. Her involvement with the Boy and Girl Scouts of America spans more than six decades, and just a small sample of the other civic organizations in which she has served include the United Community Services, Warren Friends of the Public Library, Michigan Cultural Commission, and the Warren Consolidated Schools Board of Education.

Mrs. Busse's exceptional good deeds have garnered her recognition as the Warren Jaycees Woman of the Year and the Macomb County Council for the Arts Volunteer of the Year. Some of her other awards include: the Council of Catholic Women/Archdiocese of Detroit Beatrice Zilly Award, the Warren Consolidated Schools Honorary Scholastic Letter Award, the United Community Services Tracey McGregor Volunteer Award, and the James Coughlin Award for Service to Scouting, to name just a few. In addition, "For Service to the Citizens of Warren, Michigan," Busse Park has been established and named in her honor.

For her selfless commitment to her fellow citizens Jeanne Busse is more than deserving of the accolades that come her way. I salute her for her public service, and applaud the March of Dimes for choosing such a deserving figure on whom to bestow this honor. ●

THE NEWBORNS AND MOTHERS HEALTH PROTECTION ACT

● Mrs. MURRAY. Mr. President, yesterday, by unanimous vote, the Senate passed the Newborns and Mothers Health Protection Act as an amendment to the VA-HUD appropriations bill. There is no more important issue before this Congress than the health of mothers and their newborns, and so I applaud the Senate. This amendment is vital. I want to express my pride in being a cosponsor, and my thanks to Senator BRADLEY and Senator FRIST for all of their hard work.

This amendment will require health insurers to allow moms and their newborns to stay in the hospital for a minimum of 48 hours after a normal delivery and 96 hours after a cesarean section, unless the mother and her attending health care provider decide a shorter stay is in the child's best interest.

I sent a letter, along with Senator SNOWE of Maine, to Senator Dole back on May 1 of this year, asking for a vote on this bill. That letter was signed by all the women Senators, from both parties. I am glad we have finally had a debate and approved this language.

This amendment has many cosponsors from both sides of the aisle, and has the support of numerous organizations from around the country. These organizations represent the broad range of health care providers that work with mothers, newborns, and the full range of their health concerns. There are experts from every corner of the country who will attest to the importance of this amendment, and as Senator BRADLEY has noted, more than 80,000 Americans have sent in letters asking us to pass this legislation, because they know it can mean the difference between life and death for a loved one.

Protecting mothers and their infants is the right thing to do, and is overdue. Many States already provide these protections, and hospitals such as Tacoma General in my State are already allowing these decisions to be made by the mother and her care provider, which is the way it should be.

We know from the Centers for Disease Control and Prevention that hospital stays for new mothers decreased by almost half between 1970 and 1992—from 3.9 days to 2.1 days. We know the length of stay has continued to decrease, and is now about 24 hours after normal delivery. We know there can be serious health complications within the first 48 hours even after a normal delivery. Most important, we know these decisions should be in the hands of the mother and her attending health care provider.

I am glad the Senate has taken this action, and I think it is a good first step toward improving the health of infants and other children in this country.

We need to give all newborns every advantage possible. In my mind, a healthy start on life is a good start on life. ●

EXPANSION OF THE FARMINGTON FAMILY YMCA

● Mr. ABRAHAM. Mr. President, I rise today to commemorate the grand opening on October 12, 1996, of the expanded Farmington Family YMCA. On this day, an organization with a record of community service spanning more than three decades will open the doors of a new 15,000 square foot facility to the families of Novi, West Bloomfield, Farmington, and Farmington Hills.

Chartered in 1965, the Farmington Area YMCA has over 4,200 members and more than 30,000 users annually. The completed expansion, for which all construction funds were raised privately, includes a second swimming pool to service physically challenged individuals. The new facility is also better equipped to aid the rehabilitation efforts of patients participating in an existing partnership program with Providence, Botsford General, and Sinai Hospitals.

This institution can truly be characterized as a family serving YMCA. While it currently provides all latchkey programs for students in the Farmington and Farmington Hills school districts, the YMCA can now offer greater babysitting and child care services in addition to a special "Kids Zone." Not only will families benefit from the expansion; the State of Michigan recently awarded the city of Farmington Hills a special grant to initiate a collaborative program with the YMCA and the Farmington public schools to serve the needs of young teens to assist in a community wide effort to prevent juvenile delinquency.

Finally, while expanding the physical structure provides the space to implement these programs, without the dedication of the exceptional volunteers involved with the YMCA, the completion of this ambitious project would have been impossible. Their efforts truly are commendable, and on this upcoming October 12 I salute these community servants and congratulate the families of the Farmington area on the many years of enjoyment they will receive from their expanded YMCA. ●

TRIBUTE TO THE CHEMICAL MORTAR BATTALION OF THE 3D ARMY

● Mr. ROCKEFELLER. Mr. President, I want to take a moment to pay tribute to a group of very special people. During the last weekend in this month of September, the 91st Chemical Mortar Battalion of the 3d Army will be celebrating their 51st reunion in the fine town of Wheeling in my State of West Virginia. These men gather each year in their respective States to celebrate their outstanding efforts in the Second World War.

While this Nation has many fine heroes from those years, these men are very unique because they are part of the Allied Forces who served under



Gen. George S. Patton and fought in the Battle of the Bulge. As we all know, that battle is very important because it was the last German offensive on the Western Front during World War II. It gets its distinct name from the bulge or wedge of Germans that drove into Allied lines in December 1944 and January 1945. The Battle of the Bulge became an unsuccessful attempt to push the Allies back from German home territory. By January 8, 1945, the Germans made an orderly withdrawal having used all their resources they could afford trying to regain the west. These men kept the force and prevented Hitler from repossessing lands that were not his. They even assisted in the liberation of Hitler's labor camps and saw the faces of those who survived. The Battle of the Bulge was one of great magnitude and as a result there were 77,000 Allied and 130,000 German casualties. These heroes should be proud to celebrate and tell their stories.

These men caused the height of General Patton's career as they made the dramatic sweep in his 3d Army across northern France in the summer of 1944. Under Patton, these men played a strategic role in defending Bastogne, Belgium in the Battle of the Bulge in December of that year. By January 1945, they had reached the German frontier and the United States counteroffensive began. George Patton was an outstanding practitioner of mobile tank warfare in World War II. His strict discipline, toughness, and sacrifice were well known within his ranks, leading to his being referred to by his men as "Old Blood-and-Guts."

Mr. President, I just wanted to take this time to have us all reflect and think about those men who fought for world peace during World War II. As the ranking member of the Senate Veteran's Affairs Committee, I hold a special place in my heart for every man and woman who serves our country. While every veteran of war is unique and deserves our Nation's honor, these 80 or so men gathered in Wheeling, WV, this month merit a special tribute. It is now 1996 and there is no more Hitler, there are no more concentration camps, and Patton no longer lives. These men fought and lived in a time that has now become history. May they meet, share their stories, and rejoice for who they are and what they have done. Let us all be proud to have these men come to West Virginia and celebrate their 51st reunion as the 91st Chemical Mortar Battalion of the 3d Army.●

#### CONGRATULATIONS TO MICHIGAN'S MEDAL WINNING ATHLETES IN THE 1996 SUMMER OLYMPIC GAMES

● Mr. ABRAHAM. Mr. President, from July 19 to August 4 over 10,000 athletes from 197 countries competed in the Centennial Olympic Games in Atlanta, GA. For 17 days, the athletic exploits

of these individuals captivated the entire world.

While all performed with distinction and deserve our recognition, such is the nature of Olympic competition that only a select few can rise to the medal stand. From my State of Michigan the following 10 exceptional men and women can now be added to the elite ranks of Olympic champions:

Gold medals: Tom Dolan, Ann Arbor, 400m IM, swimming; Grant Hill, Detroit, forward, basketball; Annette Salmeen, Ann Arbor, 800m FR, swimming; Sheila Taormina, Livonia, 800m FR, swimming.

Silver medals: Dana Chladek, Bloomfield Hills, whitewater slalom K-1, kayak; Tom Malchow, Ann Arbor, 200m fly, swimming; Eric Namesnik, Ann Arbor, 400m IM, swimming.

Bronze medals: Mark Lenzi, Ann Arbor, 3m springboard, diving; Floyd Mayweather, Grand Rapids, featherweight, boxing; Jeffrey Pfaendtner, Detroit, men's lightweight four, rowing.

Mr. President, most of us can only dream of Olympic competition, or watch it from the sidelines. These dedicated men and women worked, trained, and sacrificed to make their dream a reality. They practiced until their God-given talents were honed to their fullest. They were rewarded with victory and the knowledge that they had performed, under intense pressure, up to their full potential.

I offer my congratulations to these fine Michiganders. I also offer my thanks, on behalf of my State, for making us proud of them for a job well done.●

#### LAWYERS FOR CHILDREN

Mr. LIEBERMAN. Mr. President, I rise today to acknowledge the outstanding efforts of the Lawyers for Children, an organization whose roots are in my home State.

Lawyers for Children is a nonprofit organization founded to address the critical issues of youth and violence. Highly trained, talented, and compassionate private sector lawyers volunteer their time to serve as advocates through Lawyers for Children for abused and neglected children. Lawyers for Children also works in our schools to teach our kids that there are alternatives to violence—that the power of the spoken word can get you much further than joining a gang or carrying a gun.

Lawyers for Children began in Hartford 2 years ago. Since then, offices were added in Washington, DC and Miami, FL. I am confident that I speak for all the citizens of Connecticut when I express my pride and sincere gratitude for this organization. Lawyers for Children American recognizes that lawyers are in a unique position by virtue of their training to help kids deal with the perils of violence, drug abuse, and, in many cases, the lack of a sufficient education. I sincerely thank Lawyers for Children for all their hard work and

dedication to future of America—our children.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Iowa for allowing me to do some unanimous-consent requests and some Executive Calendar issues. It will not take but a moment, and then we will go ahead and do the wrapup, and then Senator GRASSLEY and Senator GRAHAM of Florida can make their remarks at that time.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar, en bloc, Nos. 686, 718, 720.

Mr. President, I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

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

The nominations were considered and confirmed, en bloc, as follows:

#### EXECUTIVE OFFICE OF THE PRESIDENT

Franklin D. Raines, of the District of Columbia, to be Director of the Office of Management and Budget.

#### AIR FORCE

The following-named officer for appointment to the grade of lieutenant general in the U.S. Air Force while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

#### To be lieutenant general

Maj. Gen. David J. McCloud, 000-00-0000.

#### NAVY

The following-named officer for appointment to the grade of Admiral in the U.S. Navy while assigned to a position of importance and responsibility under title 10, United States Code, sections 601 and 5035:

#### VICE CHIEF OF NAVAL OPERATIONS

#### To be admiral

Vice Adm. Harold W. Gehman, Jr., 000-00-0000.

Mr. LOTT. I want to note, Mr. President, that Calendar No. 686 is Franklin D. Raines to be Director of the Office of Management and Budget. I want to thank Senators for cooperation in getting this concluded. Senator DOMENICI, the chairman of the Budget Committee, has been very interested in this. I think this is the right thing to do.

I am satisfied he is eminently qualified for the position. And the President should have his Director of the Office of Management and Budget in place. I think this should be completed. The others were military nominations that had been reported by the Armed Services Committee. And there was a great need for those to be in place.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

## CONGRATULATING THE PEOPLE OF MONGOLIA ON EMBRACING DEMOCRACY

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 516, Senate Resolution 276.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 276) congratulating the people of Mongolia on embracing democracy in Mongolia through their participation in the parliamentary elections held on June 30, 1996.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, and the motion to reconsider be laid upon the table, en bloc.

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

The resolution (S. Res. 276) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, was agreed to as follows:

## S. RES. 276

Whereas Mongolia conducted elections on June 30, 1996, for its unicameral national parliament, the Great Hural;

Whereas Mongolian voters cast their ballots in a peaceful and orderly fashion at 1590 polling places, choosing from among 351 candidates representing 11 different parties and coalitions;

Whereas the primary issues facing Mongolian voters were the scope and pace of continued democratization and economic liberalization;

Whereas the former Communist Mongolian People's Revolutionary Party (MPRP) suffered a dramatic and unexpected loss at the polls, and the Democratic Union Coalition won majority control of the Great Hural;

Whereas the Democratic Union Coalition espoused a policy of strengthening democratic institutions, implementing free market economic reforms, and strengthening the independence of the judiciary;

Whereas voter turnout exceeded 87 percent according to preliminary reports;

Whereas an international election observation team led by former Secretary of State James A. Baker traveled to nine different areas of Mongolia to observe pre-election day preparations and Mongolian citizens voting on election day; and

Whereas the United States election observers judged the election to be free, peaceful, and fair, with the results respected by all sides: Now, therefore, be it

*Resolved*, That the Senate hereby congratulates the people of Mongolia for—

(1) overwhelmingly embracing democracy through their participation in the June 30, 1996, elections for the national parliament, the Great Hural;

(2) conducting free, fair, and credible elections;

(3) continuing to build on the progress of the past and moving further away from their previous dependence on a communist system; and

(4) serving as an example to the peoples of East Asia who seek further democratization of their countries.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President with the request that he further transmit such copy to the Government of Mongolia.

## OLDER AMERICANS ACT OF 1965

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate action yesterday on S. 1972 be vitiated.

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

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to its consideration.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

## AMENDMENT NO. 5203

(Purpose: To make a technical amendment)

Mr. LOTT. Mr. President, I ask unanimous consent that a technical amendment, No. 5203, which is at the desk be considered and agreed to.

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

The amendment (No. 5203) was agreed to, as follows:

On page 2, line 13, insert "or near" after "on".

Mr. MCCAIN. Mr. President, I wish to thank my colleagues for voting to adopt S. 1972, a bill to amend the Older Americans Act. S. 1972 makes technical corrections to the Act to clarify and improve the provisions relating to older native Americans.

Mr. President, many older native Americans have benefited from programs authorized under the Older Americans Act. Indian tribes have provided much needed home-based care, meals and services to elderly tribal members living on Indian reservations and in nearby communities. In most cases, older native Americans live in remote and isolated communities with little or no access to a grocery store, telephone, health care and other important services. Through the Older Americans Act, nutrition and support services can be provided to older Native Americans in their homes and communities on a daily basis.

However, many of these services can be strengthened to ensure that Indian tribes are able to tailor nutritional and supportive programs to the cultural and geographic characteristics of their communities. Often, employment and nutrition programs are difficult to administer in Indian country because of the remoteness of the service area and the unique character of Indian cultures. The changes in S. 1972 will ensure that Indian tribes and tribal organizations serving native American elders will be afforded maximum flexibility in administering employment

and nutrition programs to ensure that they are appropriate to the unique characteristics of the Indian communities.

Mr. President, I have proposed a minor technical change to the bill as it was reported in the Committee on Indian Affairs. This amendment to section 2 of the bill is necessary to clarify that the proposed change to the definition of "reservation" will not alter any existing eligibility for Indians living near an Indian reservation.

Mr. President, I wish to express my appreciation to Senators INOUE and STEVENS, who joined me in sponsoring this legislation and my colleagues in the Senate who voted to pass S. 1972. This act will bring us closer to meeting the goals of the Older Americans Act to ensure that older native Americans will continue to benefit from the services provided by the act.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed, and the motion to reconsider be laid upon the table.

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

The bill (S. 1972), as amended, was deemed read the third time and passed as follows:

## S. 1972

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE.

This Act may be cited as the "Older Americans Indian Technical Amendments Act".

## SEC. 2. INDIAN EMPLOYMENT; DEFINITION OF INDIAN RESERVATION.

Section 502(b)(1)(B) of such Act (42 U.S.C. 3056(b)(1)(B)) is amended to read as follows:

"(B)(i) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities; or

"(ii) if such project is carried out by a tribal organization that enters into an agreement under subsection (b) or receives assistance from a State that enters into such an agreement, will provide employment for such individuals who are Indians residing on or near an Indian reservation, as the term is defined in section 2601(2) of the Energy Policy Act of 1992 (25 U.S.C. 3501(2))."

## SEC. 3. POPULATION STATISTICS DEVELOPMENT.

Section 614(b) of such Act (42 U.S.C. 3057e(b)) is amended by striking "certification" and inserting "approval".

## SEC. 4. REPORTING REQUIREMENTS.

Section 614(c) of such Act (42 U.S.C. 3057e(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) The Assistant Secretary shall provide waivers and exemptions of the reporting requirements of subsection (a)(3) for applicants that serve Indian populations in geographically isolated areas, or applicants that serve small Indian populations, where the small scale of the project, the nature of the applicant, or other factors make the reporting requirements unreasonable under the circumstances. The Assistant Secretary shall consult with such applicants in establishing appropriate waivers and exemptions."

## SEC. 5. EXPENDITURE OF FUNDS FOR NUTRITION SERVICES.

Section 614(c) of such Act (42 U.S.C. 3057e(c)), as amended by section 4, is further

amended by adding at the end the following new paragraph:

“(3) In determining whether an application complies with the requirements of subsection (a)(8), the Assistant Secretary shall provide maximum flexibility to an applicant who seeks to take into account subsistence needs, local customs, and other characteristics that are appropriate to the unique cultural, regional, and geographic needs of the Indian populations to be served.”.

#### SEC. 6. COORDINATION OF SERVICES.

Section 614(c) of such Act (42 U.S.C. 3057e(c)), as amended by section 5, is further amended by adding at the end the following new paragraph:

“(4) In determining whether an application complies with the requirements of subsection (a)(12), the Assistant Secretary shall require only that an applicant provide an appropriate narrative description of the geographical area to be served and an assurance that procedures will be adopted to ensure against duplicate services being provided to the same recipients.”.

#### ELECTING GREGORY S. CASEY, OF IDAHO, AS THE SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 289.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 289) electing Gregory S. Casey, of Idaho, as the Sergeant at Arms and Doorkeeper of the Senate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be considered and agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 289) was agreed to, as follows:

S. RES. 289

*Resolved*, That Gregory S. Casey, of Idaho, be, and he is hereby, elected Sergeant at Arms and Doorkeeper of the Senate.

Mr. LOTT. Mr. President, I do want to thank the minority leader for his cooperation in this appointment. There will be a swearing in for this position for Gregory Casey on Tuesday.

#### APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to the provisions of Senate Concurrent Resolution 47 (104th Congress), appoints the following Senators to the Joint Congressional Committee on Inaugural Ceremonies:

The Senator from Mississippi [Mr. LOTT]:

The Senator from Virginia [Mr. WARNER]: and

The Senator from Kentucky [Mr. FORD].

#### PROGRAM

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10:30 a.m., Monday, September 9, further that following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and that the Senate immediately turn to the consideration of the conference report to accompany H.R. 3230, the Department of Defense authorization bill, as under the previous order that had been agreed to.

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

Mr. LOTT. On Monday, the Defense conference report will be considered under the unanimous consent agreement that limits debate to a total of 5 hours. I now ask unanimous consent that at the hour of 3:30 p.m. on Monday there be a period for morning business with Senator DASCHLE or his designee in control of the time from 3:30 to 4:30 and Senator COVERDELL or his designee in control of the time between 4:30 and 5:30.

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

Mr. LOTT. I want to remind my colleagues, there will be no rollcall votes on Monday. The next rollcall vote will take place on Tuesday, September 10 at 2:15 p.m. Those votes will be first on the adoption of the DOD. authorization conference report which will have been debated during the day on Monday, followed by passage of the Defense Marriage Act, to be followed by 30 minutes of debate and passage for action on the employment nondiscrimination bill. Following those votes on Tuesday, the Senate will turn to consideration of the Treasury-Postal Service appropriations bill and those votes can be expected then or votes to occur on amendments and on that appropriations bill later in the day on Tuesday.

#### ORDER FOR ADJOURNMENT

Mr. LOTT. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of Senator GRAHAM of Florida and Senator GRASSLEY of Iowa.

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

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

The PRESIDING OFFICER. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### ALU/O'HARA AMENDMENT

Mr. GRAHAM. Mr. President, I want to begin my statement by congratulating two heroes—heroes of south Florida and heroes of our Nation—officers Joseph Alu and James O'Hara, former members of the city of Plantation police department.

On October 3 of this year, these two men will be honored by the National Association of Police Organizations, when they receive the Top Cops Award—an honor given to a select group of officers who display exceptional courage and bravery in the face of danger.

Mr. President, we in Florida are quite proud to have citizens like Officers Alu and O'Hara living among us, not just for the courage they displayed while in the line of duty, but also for the courage and perseverance displayed after the tragic incident which occurred on July 24, 1995.

Mr. President, let me briefly recount the tragic events of July 24, 1995. While on duty, Officer Joseph Alu and Detective James O'Hara, were called to what turned out to be an emergency hostage situation. When the officers had arrived at the scene—they found that an assailant had cordoned himself off in a bedroom of a house and had taken two teenaged girls hostage.

The officers broke down the bedroom door, only to discover that the assailant had doused himself, the hostages, and the entire room in gasoline. At that moment, the assailant dropped a lighter on the floor, setting the room ablaze, killing himself and the two hostages.

Officers Alu and O'Hara were critically wounded—receiving severe burns over most of their bodies. Both officers remained in the hospital for the better part of a year fighting for their survival. Officer O'Hara was so badly burned that while he struggled for his life in the intensive care unit for over 6 months, his wife was told to expect and prepare for his imminent death.

Miraculously, Officer Alu and Officer O'Hara survived. But, while still in the hospital, the officers were notified that since they wouldn't be physically able to return to work they and their families would lose their health insurance benefits.

Imagine fighting for your life in a hospital, in excruciating pain, knowing that your family is going to be left unprotected. When these heroes returned home, that's exactly what they found: no job, disability payments of approximately \$1,200 a month, prohibitively expensive COBRA insurance which would run out in 18 months, and no private health insurance for them and their families.

For over 5 months, Officer Alu's wife, Sheila, stayed home to care for her husband during his rehabilitation, herself unable to work to bring in badly needed extra income. Further complicating their situation was their 5-year-old daughter, Christina, who was battling chronic asthma without health insurance.

Detective O'Hara's family was in a similar situation. In fact, his wife still must care for his everyday needs almost 14 months after the incident.

But instead of giving up hope, Officers Alu and O'Hara fought hard. They brought their case to the Florida Legislature. Mr. President, they won.

The legislature, with a Republican senate and a Democratic house, unanimously passed this legislation at the State level—requiring that localities continue whatever health insurance benefits the officer had prior to the injury after the injury when they are no longer able to return to work.

Mr. President, although they have won personal victories, Officers Alu and O'Hara have continued their fight—taking their case to Congress—and asking us to make sure that other officers not go through the same pain, uncertainty, and feelings of shame when they were unable to provide for their families.

Across the Nation, unlike veterans who have risked their lives to protect our national security, those who protect our homes and streets have their insurance canceled by municipalities or States when they can no longer return to work.

Mr. President, the House of Representatives has already passed the Alu-O'Hara amendment—unanimously, I might add—to the Commerce, State, Justice appropriations bill which would prevent this injustice from happening to any other officer again.

I have introduced identical legislation in the Senate. It is my hope that the Senate Appropriations Committee will simply maintain the House-passed Alu-O'Hara provision in the Senate bill.

Mr. President, I ask unanimous consent that at the conclusion of my remarks, the amendment that it is my hope will be maintained, which has been adopted by the House of Representatives, be printed in the RECORD.

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

(See exhibit 1.)

Mr. GRAHAM. Mr. President, if this amendment should not be adopted by the Senate Appropriations Committee, I announce that it is my intention to offer this as an amendment when we consider the Commerce, State, Justice bill, hopefully next week.

The Alu-O'Hara bill, endorsed by all major police and firefighter organizations, would create a safety net for injured officers by requiring municipalities that receive Federal crime dollars to continue to maintain the same level of benefits that an officer had prior to being injured in the line of duty.

If a locality chooses not to offer health insurance to these public safety officers, it would only be able to receive 90 percent of its full complement of community-oriented policing services funding.

Mr. President, the scope of this bill is extremely narrow. It would apply only to a handful of public safety officers, estimated at approximately 100 nationwide per year. And it is not costly. CBO has already stated that this bill is not an unfunded mandate.

In fact, the city of Lauderhill, FL, where Officers Alu and O'Hara reside, added expanded insurance coverage to cover all of its municipal employees, not just public safety officers, at no extra cost to the city.

Even though the Alu-O'Hara amendment is inexpensive, its message is unmistakably clear.

We need laws which protect our valiant men and women on the frontlines. When they go down in the line of duty protecting us, we have a corresponding duty to care for them.

Mr. President, this amendment would provide only the most basic package of benefits. It does not grant any enhanced or increased benefits over what the officer had at the time of the injury.

The bill requires State and local governments to offer only the minimum level of health insurance necessary to maintain the health coverage the officer had prior to the disabling injury.

For instance, if an officer or firefighter did not have family coverage prior to the injury, he would not be entitled to family coverage after the injury.

Mr. President, I am proud of my State of Florida. But it should not take a terrible incident like this to make sure that our public safety officers are protected. We can prevent this situation from ever happening to officers like Alu and O'Hara by making sure that we maintain the Alu-O'Hara provision in the Commerce, State, Justice bill, and can do so in a proudly bipartisan fashion.

Mr. President, allow me to conclude by commending both Officer Alu and Detective O'Hara and their families for their bravery, sacrifice, and dedication to public service. Without their perseverance we wouldn't be here today discussing this most critical issue. I know that police officers and firefighters across the Nation share my gratitude for their courage and selflessness.

Mr. President, in passing this bill, we will honor our commitment to all of our public safety officers: to protect and care for them after they have done so much to protect and care for us.

Mr. President, thank you.

#### EXHIBIT 1

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . Of the funds appropriated in this Act under the heading "OFFICE OF JUSTICE PROGRAMS—STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE", not more than ninety percent of the amount to be awarded to an entity under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 shall be made available to such an entity when it is made known to the Federal official having authority to obligate or expend such funds that the entity that employs a public safety officer (as such term is defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide such a public safety officer who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits that are paid by the entity at the time of retirement or separation.

#### ADJOURNMENT UNTIL 10:30 A.M., MONDAY, SEPTEMBER 9, 1996

The PRESIDING OFFICER. Is there further business to come before the Senate? If not, under the previous order, the Senate stands in adjournment until 10:30 a.m., Monday, September 9. Thereupon, the Senate, at 3:10 p.m., adjourned until Monday, September 9, 1996, at 10:30 a.m.

#### CONFIRMATIONS

Executive Nominations Confirmed by the Senate September 6, 1996:

##### EXECUTIVE OFFICE OF THE PRESIDENT

FRANKLIN D. RAINES, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

##### IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE U.S. AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE SECTION 601:

##### To be lieutenant general

MAJ. GEN. DAVID J. MCCLOUD, 000-00-0000.

##### NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL IN THE U.S. NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 5035:

##### VICE CHIEF OF NAVAL OPERATIONS

##### To be admiral

VICE ADM. HAROLD W. GEHMAN, JR., 000-00-0000.