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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

In quietness and trust shall be your strength.—Isaiah 30:15.

Almighty God, for a brief moment we retreat into our inner world, that wonderful trysting place where we find Your strength. Here we escape from the noise of demanding voices and pressured conversations. With You there are no speeches to give, positions to defend, or party loyalties to push. In Your presence we can simply be. You love us inspite of our mistakes and give us a new beginning each day. We thank You that we can depend on Your guidance in all that is ahead of us. Suddenly we realize that this quiet moment in which we have placed our trust in You has refreshed us. We are replenished with new hope. Now we can return to our outer world with greater determination to keep our priorities straight. Today is a magnificent opportunity to serve You by giving our very best to our leadership of our Nation. In the name of our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able assistant majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. NICKLES. Mr. President, I congratulate the Chaplain for once again delivering a beautiful prayer for not only the Senate but for our Nation as well.

SCHEDULE

Mr. NICKLES. Mr. President, today the Senate will immediately resume consideration of H.R. 3448, the small business tax package legislation, with time until 12:30 equally divided between the two managers or their designees. The Senate will recess from the hours of 12:30 to 2:15 for the weekly policy conferences to meet. At 2:15, immediately following the conferences, the Senate will begin voting on pending amendments to the small business tax legislation. Under a previous agreement, following those votes, the Senate will begin consideration of S. 295, the TEAM Act.

Senators should also be reminded the vote on passage of the Department of Defense authorization bill will now occur at 12 noon on Wednesday. Following the vote on the Defense bill, there will be a cloture vote on the motion to proceed to S. 1788, the National Right To Work Act, to be followed by any votes ordered on amendments to the TEAM Act legislation. Also, on Wednesday morning at 10 a.m., there will be a joint meeting of Congress to hear an address by the Prime Minister of Israel.

So to repeat, for the information of all my colleagues, we will have 3 hours of debate and discussion on the tax component of the bill pending before us today. At 2:15 we will have a vote immediately on the Bond-Lott amendment, followed by a vote on the Kennedy amendment, followed by a rollcall vote, if necessary, on the tax portion of this bill, followed by final passage. For the information of all our colleagues, we will have a series of votes beginning at 2:15. We urge all Members to be attentive and ask that those rollcalls move expeditiously.

I now call on my colleague, Senator ROTH, from Delaware, to manage the tax portion of this bill.

SMALL BUSINESS JOB PROTECTION ACT OF 1996

The PRESIDING OFFICER (Mr. BROWN). Under the previous order, the Senate will now resume consideration of H.R. 3448, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3448) to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take-home pay of workers, to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer-owned vehicles, and to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate and to prevent job loss by providing flexibility to employers in complying with minimum wage and overtime requirements under that act.

The Senate resumed consideration of the bill.

Pending:

Kennedy amendment No. 4435, to amend the Fair Labor Standards Act of 1938 to provide for an increase in the minimum wage rate and to exempt computer professionals from the minimum wage and maximum hour requirements, and to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer-owned vehicles.

Bond amendment No. 4272, to modify the payment of wages provisions.

The PRESIDING OFFICER. The time until 12:30 p.m. shall be equally divided between the Senator from Delaware and the Senator from New York or their designees.

Mr. KENNEDY. Mr. President, may I ask the Senator a question? Did the Senator include a vote on the TEAM Act after the Defense authorization? Is that referenced in the Senator's list of votes?

Mr. NICKLES. The Senator is correct.

Mr. KENNEDY. I thank the Senator.

The PRESIDING OFFICER. Who seeks recognition?

Mr. ROTH addressed the Chair.

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

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, America's most valuable economic resource is the spirit of enterprise that moves in our people. This spirit is reflected in men and women and families that build businesses on dreams, personal risk, and good ideas. It is reflected in the strength of our communities, communities held together by commerce. It is reflected in the strong economic status our Nation enjoys, indeed, in our superpower status. And it is reflected in the security and opportunity we enjoy as individuals.

The responsibility of Congress, of Government in general, is to help promote an environment where this spirit can flourish, especially among America's small business men and women.

How important is it that we succeed in this endeavor? Consider that there are 22 million small business owners in America today, and that each year another 800,000 new small startups are created. Consider that nearly 6 out of 10 Americans get their paychecks from small businesses and that small business represents 99.8 percent of all American businesses. They contribute more than half of our sales in our country. They provide more than half of our economy's output and 55 percent of all new innovations each year.

Consider, Mr. President, that of the 25 million future jobs that will be needed to provide employment for Americans, 75 percent will come from small business. Recently, I heard that the majority of small businesses today are being created by women. With these trends in mind, we can see how important it is that we succeed in passing a small business bill that meets the real needs of America's entrepreneurs, a bill that unleashes enterprise and rewards risk taking.

Toward this end, Senator MOYNIHAN and I have spent a great deal of time taking comments from our colleagues pertaining to this small business bill. We have consulted with the leadership on both sides of the aisle. We believe we have developed an amendment that addresses the requests and comments we received.

Before turning my attention to the managers' and leaders' amendment, however, I would like to address the tax provisions to the small business bill that are proposed by the Finance Committee.

For small business, the only thing worse than excessive taxation is a visit from the people at ''60 Minutes.'' Frankly, Mr. President, I know several small business men and women who would rather face Mike Wallace. Excessive taxes are the sludge that binds the gears of small business, and we must do something about them.

The tax provisions proposed by the Finance Committee represents a good start. They lift some of the burden that is borne by small businesses. They make it easier for small business men and women to hire, to expand, to modernize. Our tax provisions facilitate the ability of small businesses to offer retirement plans for their employees. They allow businesses to bring more employees into pension plans.

Beyond all of this, we make both undergraduate and graduate education more affordable for employees by extending the tax-free treatment of employer-provided education assistance. These are incentives that will go a long way toward creating an environment for growth, job creation, economic security, and real opportunity for Americans. Legislation with similar tax incentives passed the House by a vote of 414–10.

Specifically, what this bill does is provide an increase in the expensing of small business equipment from the current $17,500 annual amount to $25,000 by the year 2003. It offers a package of subchapter S corporation reforms that will improve the ability of small business men and women to use this corporate status. Among a number of reforms, the principal changes include increasing the number of subchapter S corporation shareholders, easing the use of subchapter S corporations in the area of estate planning, broadening the access of subchapter S corporations for small banks, employee stock ownership plans and charities, and granting greater flexibility in the use of multiple subchapter S corporations. Additionally, the reforms will permit taxpayers to keep subchapter S corporation status, and allow corrections for inadvertent mistakes.

Our bill also contains pension simplification proposals, including spousal IRA's and a new kind of pension plan for small business. Our purpose here is to increase access to the pension system for the millions of small business employees who currently do not have this important security. One of my major objectives is that spouses be treated equally when it comes to pension benefits and individual retirement accounts. Currently, a homemaker can only contribute up to $250 to an IRA. Under our plan, they would be able to invest up to $2,000, the same amount contributed by their spouses.

In addition, our package permits tax-exempt organizations to set up section 401(k) opportunities for their employees, and it simplifies pension rules for employers who currently offer pension plans. Beyond this, we offer a package of proposals that extend tax benefits that have expired. These important benefits include the tax credit for research and development which keeps us competitive in the global economic community. They include credits for the very expensive costs associated with the development and testing of drugs for rare diseases. These are often referred to as ''orphan drugs''—orphans because their limited demand makes it otherwise cost prohibitive to research, develop, and market them.

Included in the package of extenders is an extension of the section 29 alternative fuels credit. This credit provides an incentive for the production of clean and environmentally friendly energy sources.

Mr. President, in the last 5 years, small businesses have created 9 out of 10 new jobs. In fact, small business provided all the net new jobs from 1987 to 1992. Mr. President, 9 out of 10 of these firms have fewer than 20 employees. They are, indeed, the heroes on the front line. With these changes to the tax law, these small business men and women will have greater incentives and resources to move our economy forward.

Should anyone doubt how stalwart these men and women are compared to those in other countries, should anyone doubt that Government policies have consequences on their ability to succeed, I refer to a recent article from the London Sunday Telegraph. According to that paper,

> The United States has created 30 times more new private-sector jobs in the European Union over the last 20 years. . . The British Treasury reported that the EU created fewer than 1 million net jobs, compared with more than 31 million produced by the more deregulated American economy.
>
> The stark Treasury figures paint a much grimmer picture than the Foreign Office' recent White Paper on Europe, which claimed that the EU had created 8 million jobs over the same period.
>
> Compiled from independent figures, the Treasury tracks detailed employment patterns between the two trading blocks for 1974–1994. With roughly similar populations during that period of around 250 million, they show the United States created 31,306,000 net new jobs in the private sector to Europe's 823,000. . .
>
> Speaking in London on Friday. . . the French commissioner for a single currency, admitted that overzealous EU regulation had taken its toll on job creation.

Mr. President, taxation and regulation do have profound influences on the ability of nations to create jobs. What we propose is to take some of the burden off the backs of American small business men and women. My hope is that this is only a beginning, but it is a good beginning.

Now, our tax provision to the Small Business Job Protection Act of 1996 passed the committee unanimously. There is no reason why we cannot see similar success here on the floor.

Mr. President, I now turn our attention to the managers' and leaders' amendment. In developing this amendment, I believe we have maintained the goals that were set out in crafting the campaign finance reform bill. Our objectives were, first, to retain the bipartisan spirit of the bill. Second, to stay with two basic themes: To create incentives for small business and economic growth; and to extend many of the important tax provisions that have either expired or are set to expire. Our third objective sought to refrain from opening up controversial issues, issues that would divide Republicans and Democrats here on the floor.

AMENDMENT NO. 4436

(Purpose: To provide additional amendments.)

Mr. ROTH. Mr. President, I send to the desk a copy of the managers' and leaders' amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself, Mr. MOYNIHAN, Mr. LOTT, and Mr. DASCHLE, proposes an amendment numbered 4436.

Mr. ROTH. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. ROTH. Mr. President, I note that a copy of the amendment and its explanation will be available on the desk of each Senator on the Senate floor.

Many Members of the Senate have raised tax proposals for consideration in this managers' and leaders' amendment. Some of these proposals are outside the scope of the objectives I mentioned. Other proposals are relevant to our objectives but they are controversial or costly.

This managers' and leaders' amendment strives to stick with the small business and extenders themes, so these controversial, nongermane proposals are not included.

Mr. President, the major components of the managers' amendment are:

First, to extend most of the expired provisions to December 31, 1997. This is a half-year extension. I note that the section 29 alternative fuels credit is extended to December 31, 1998, and the grandfather for certain publicly traded partnerships is extended to December 31, 1999.

Second, this amendment provides additional pension simplification provisions. Most of these are directed at protecting spouses of pension plan participants.

Third, at the request of a bipartisan group of Labor Committee Senators, led by Senator KASSEBAUM, our amendment offers a clarification of the effect of the Harris Trust Supreme Court case. The Harris Trust case overturned 20 years of Labor Department policy regarding insurance companies. It created additional uncertainty about the liability of insurance companies that fund employee benefit plans. Our proposal adopts the Labor Committee's directive to the Labor Department, mandating a clarification of the treatment of insurance companies under the Employee Retirement Income Security Act [ERISA].

In a recent letter from Secretary Robert Reich, he stated the Labor Department's strong support for the Labor Committee's bill. In that letter, the Secretary writes: ''The legislation will provide the guidance necessary to avert disruption in the insurance industry, thereby improving the security of American workers' pension plan assets.''

Fourth, our amendment provides additional clarifications of the worker classification safe harbor known as section 530. This concerns the distinction between employees and independent contractors for employment tax purposes. I believe these additional clarifications are necessary steps to help clear up the confusion and controversy in worker classification.

Mr. President, the managers' and leaders' amendment is fully offset, and I would like to comment on a couple of these.

First, the managers' and leaders' amendment adopts a proposal from the President's budget that denies the personal exemption deduction and dependent care credit if taxpayers do not supply the dependent's Social Security number. I believe this proposal is necessary to insure against fraud.

Another important offset is the extension of the 10-percent air ticket and cargo excise taxes.

The House bill did not include an extension of this ticket tax. The aviation program's authorization terminates on September 30, 1996. In response to concerns raised by Commerce Committee members, the Finance Committee bill extends the ticket tax through the end of this year as an interim measure to ensure adequate funding for the aviation program until it is reauthorized.

Under the managers' and leaders' amendment, the air ticket and cargo excise taxes are further extended until April 15, 1997—an additional 3½ months. This is an extension I agreed to reluctantly and one I believe should be revisited in conference with the House.

Mr. President, I believe the managers' and leaders' amendment lives up to the spirit of the bipartisan Finance Committee bill. I urge my colleagues' support.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I will not take a great deal of time this morning as I spoke yesterday, and there are Senators who wish to speak to other provisions of this bill. But I would take as much time as is required to state my gratitude to and admiration for the work of the chairman, our chairman, Senator ROTH.

Mr. President, would you care to pause for a moment and ask, how many unanimous, bipartisan, 100-page bills have you seen come to the Senate floor in the 104th Congress? I think not many. I dare to think there has not been even one.

The chairman has crafted a major tax cut—a major tax cut. It comes from a unanimous Finance Committee, and it has other matters attached to it. But I hope that as we debate those other matters, we would not overlook the substantive, important revenue provisions in this bill.

I just want to say it is very difficult to make it look easy, and the chairman has managed that. I want to express my appreciation.

I would particularly call attention to the employer-provided educational assistance provisions in this bill. This, Mr. President, is almost surely the most successful education program the Federal Government sponsors. A million persons a year are provided higher education by their employers, and the tuition is tax free.

I had occasion to speak about this yesterday. Outside the organizations involved, not many people would know of this program. There is no bureau in the Department of Labor for employer-provided educational assistance, and no bureaucracy; it has no titles, no confirmations, no assistant secretaries. A million persons a year are sent by their employers to higher education, about a quarter for graduate-level education, with the understanding that they are capable of doing work at higher levels and skills and compensation, and that it is mutually rewarding to the individual and the firm.

To say again, a quarter of these individuals are going to graduate schools, and very complex ones. Ask any major employer about their training systems, and they will say nothing is more helpful than being able to send a promising young person, or middle management person, to a graduate school to learn a new field, learn a field that has developed since that person had his education. That can be very rapid in many technologies. Consider the area of software: 16 years is another era.

We have had employer-provided educational assistance in place since 1978, but we have been on and off about keeping it in place. It has expired. Now we are going to bring it back—retroactive to the last day's expiration, up to December 31 of this year. In the managers' amendment, we extend it another year.

I would like to simply say to the chairman that I hope early in the next Congress we can make this provision permanent so it can be depended on. This will permit workers to make it part of their plans. They can go off to the University of Delaware and take another degree in advanced chemistry, and then come back in another, better, position. It is part of your career program, and it should be. This is a wonderful piece of unobtrusive social policy.

I would also like to thank the chairman for including in the managers' amendment a version of the expatriation proposal I first introduced in 1995. I will not go into the details at great length, but we have resolved the expatriation issue in this bill. Expatriation is the matter of individuals, wealthy individuals, who renounce their American citizenship in order to avoid American taxes. This is no small sum. In the course of the next 10 years, this provision will pick up $1.7 billion.

This issue arose in 1995 when the Finance Committee reported a bill to restore the health insurance deduction for the self-employed. We were going to include expatriation at that time, and yet we had a series of communications from scholars of the first order, including Prof. Paul B. Stephan III, a specialist in both international law and tax law at the University of Virginia Law School; Mr. Stephen E. Shay, who served as international tax counsel at the Department of the Treasury; Detlev Vagts of Harvard Law; Andreas F. Lowenfeld of New York University Law; and particularly Prof. Hurst Hannum of the Fletcher School of Law and Diplomacy at Tufts University, who raised the question of whether our statute was legal under the International Covenant on Civil and Political Rights, which the United States ratified in 1992. It is our law, treaty law, and it is therefore the supreme Law of the Land under article VI of our Constitution.

Section 2 of article 12 of the international covenant states: ''Everyone shall be free to leave any country, including his own.''

The expatriation legislation had seemed to legal scholars to raise a question of infringement of the treaty and, in effect, the law would fall before the treaty, the treaty being the higher law. Professor Robert F. Turner, a professor of international law at the U.S. Naval War College, so testified before the Finance Committee. Although other experts gave us contrary opinions, it was clear to us that the Senate should not act improvidently on the matter. Genuine questions of human rights under international law, and the solemn obligations of the United States under treaties, were in question. So when the conference committee met on the self-employed health deduction bill, we had no alternative but to defer a decision on the matter until we got it straight. To do otherwise, obviously, would have been not only imprudent but irresponsible.

Even so, there are persons in the Chamber who wondered whether or not we were looking after millionaires who renounce their citizenship and move to the Bahamas, and there were some rather heated exchanges. I said at that time that you never have to be more careful of human rights than when you are dealing with persons who are despised. Nobody thinks very much of a millionaire who chooses to become a Bahamian and keeps his membership in the Woonsocket Yacht Club.

In the ensuing months, a general consensus developed that it was possible to craft legislation to curb the abuse of expatriation without violating our international legal obligations. Which is precisely what this bill does. We were determined, and we now bring to the floor, Mr. President, a measure which addresses the problem—and which will raise $1.7 billion over 10 years. Although not many people expatriate, their tax liabilities are significant. So this provision will raise $1.7 billion. The Finance Committee has a record, we hope, of being vigilant about abuses but also concerned and careful about rights. So, Mr. President, I would like to thank again the chairman for this work. We have done it well.

We are going to have to be careful in conference about the provisions on Puerto Rico. We have major provisions we have decided to end after 60 years, the provisions under section 936 of the Internal Revenue Code, but I think we are doing so in a way that is acceptable to the elected officials in Puerto Rico and all in all is a good job. It took us 2 years to get it right, and we bring it before you with pride and confidence that it will be enacted—whatever else happens in the course of the day.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. I thank my good friend and colleague, Senator MOYNIHAN, for his contribution to the development of both the Finance Committee legislation as well as the managers' amendment. It could not have been done without his contribution. I just want it to be known that he has, as always, brought great intelligence, skill, and knowledge to this most important task.

I share with him his interest and concern in education. I think it is only fair to say that in today's world, where technology and knowledge are changing so rapidly, there has never been a time for it to be more important that we keep the most well educated people anywhere in the world, and certainly Senator MOYNIHAN has been a leader in that effort.

I have to say to my distinguished colleague that many of these extenders I think are critically important. One of my first questions on it is, Why don't we make them permanent? Unfortunately, we have a problem of cost and budget rules, but this is something that we will have to look at jointly in the future.

Mr. MOYNIHAN. Mr. President, I take that remark with great encouragement. I think the chairman is right. When the chairman is right, he will figure how to do what is right. I thank him very much.

Mr. ROTH. At this time, I am happy to yield to the senior Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I very much appreciate the chairman of the Finance Committee yielding to me for just a moment to comment on one aspect of the bill. I think the package that has been put together by the Finance Committee under the distinguished leadership of both the chairman and ranking member is an important package. I am particularly pleased that, for example, there has been provision for educational assistance and the orphan drug tax credit. These were expiring credits that have been extended that I think are very important. I am also pleased that the extension of the airway and airport trust fund has been acknowledged, and I would like to speak to the clarification of the application of ERISA to insurance company general accounts. This has also been included in the managers' package, and I am not sure that it is clearly understood. I am very appreciative of it being included, and I think it was important to do so. If I may, Mr. President, just for a moment speak to what this is about.

The Department of Labor has been working closely with all parties for nearly 3 years to address the complex issue raised by the Harris Trust decision of the Supreme Court in December 1993. They ruled then in John Hancock versus Harris Trust that this longstanding practice of including pension assets as part of a general account could violate ERISA. The Court recognized it was overturning the Department's ruling and that its decision created the possibility of serious disruptions in the pension marketplace. It indicated, however, that any problems could be addressed legislatively or administratively. So that is what this is about, and that is why this bill has the full support of this administration. The administration believed that it had to be addressed legislatively and that was the only way that we could fully acknowledge the difficulties that were apparent by the Supreme Court's decision.

In its January 17, 1996 letter of support, Secretary Reich writes that the legislation:

> Will provide the guidance necessary to avert disruption in the insurance industry, thereby improving the security of American workers' pension plan assets.

Let me make clear the ERISA Clarification Act, as this is called, does not overturn Harris Trust. Rather, it requires the Labor Department to issue guidance by March of next year as to how insurance companies are to deal with pension plans in the future. To protect the rights of plan participants and beneficiaries, consistent with the Harris Trust decision, any guidance issued by the Department must contain strict standards that companies must meet in order to qualify for the relief. Failure to comply with these rules will subject any company to all the sanctions imposed by ERISA on those who violate the fiduciary responsibility and prohibited transaction rules.

The legislation also prevents the Harris Trust decision from being applied retroactively. This is appropriate because the life insurance industry has relied for almost 20 years on Government's interpretation as to how it was to act under the statute and because exposing the industry to retroactive liability could severely threaten the security of pension assets.

In response to some initial concerns raised by the administration and others, the legislation before us contains

several modifications. Most important: No. 1, the legislation contains new, stricter standards to ensure that any guidance issued by the Labor Department must fully protect the rights and interests of plan participants and beneficiaries; and, No. 2, the legislation would not grant relief from proceedings based on fraudulent or criminal activities by insurers. I would also like to point out the bill does not affect any ongoing civil actions.

I think this is very important that this be included in the management package at this time. This is in addition to the State insurance regulations that already provide important protections to contract holders, so I am confident that there is the protection there that is necessary, and it is important that this be enacted at this time in order to ensure the security of pension assets for millions of American workers and retirees who hold assets in insurance company general accounts.

So I am very pleased and express my appreciation, again, to both the distinguished chairman and ranking member of the Finance Committee for including this important legislation in their managers' amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. Will my friend, the ranking minority member of the Finance Committee, be willing to yield 10 minutes?

Mr. MOYNIHAN. Of course. The Senator spoke eloquently yesterday, and I look forward to hearing him do the same today.

Mr. KENNEDY. Mr. President, will the Chair let me know when there is a minute and a half left, please.

Mr. President, the other part of this debate is about the basic, underlying issue, which is whether this country is going to respond to the very powerful needs of working families who are working 40 hours a week, 52 weeks a year, playing by the rules, trying to provide for their families. That is really the underlying issue which the Senate is going to be voting on in the early afternoon. I wish to address that particular part of the debate and the alternatives which will be before the Senate.

Minimum wage workers are the people who do some of the most thankless jobs in America. They are Head Start schoolteachers, they are teachers' aides who work with the 50 million of our young people in kindergarten through 12th grade. They are health care workers who look after our parents in nursing homes and in hospitals all across this country. They clean the offices and restrooms, collect the garbage at the curb, make the beds in fancy hotels, mop up the floors in public schools and hospitals. Minimum wage workers are the people who make the engine of our economy work while laboring behind the scenes and toiling at the drudgery jobs that must be done for America to thrive.

Minimum wage workers have dreams for their families, their children, and their future, just like all other Americans. They have served their country in war and peace, and they still believe in the American dream. They cry into their pillows at night when their children are sick and they have no money for the doctor. They are giving to America, not taking from America. They are fighting to stay off welfare because of the shame they would feel if they took a handout from a Government established for the people and by the people. Their faces pressed against the windows of our affluence, they see the riches and abundance that so many take for granted but so often seems beyond their reach. But if they work hard and well, they know their children will have a greater chance for a better life.

The minimum wage increase the Senate will vote on today will bring millions of those workers closer to that dream, and I urge the Senate to vote in a spirit of generosity that extends a helping hand, not the back of your hand, to all those who need and deserve this help. Today, we have the opportunity to put action behind the rhetoric of family values. If we really care about work, about families, about children and the future, we will vote for an increase in the minimum wage for all workers.

If we care about helping the working poor, then we must support an increase in the minimum wage, regardless of the size of the company they work for. If we want to help minorities and women and single parents, then we must raise the minimum wage for all workers without the so-called opportunity wage. If we want to help adults stay off the welfare rolls, we must raise the minimum wage.

Support for the minimum wage is an effective way to achieve the basic goal of improving the lives of American workers. Raising the minimum wage is long overdue. The increase we are voting on today should take effect as soon as possible, obviously prospectively, I hope some 30 days after the President signs it into law. And it should be available to all minimum wage workers.

I urge the Senate to reject artificial limitations on the size of the company or the time the worker has been on the job. Reject the gimmickry and chicanery we see in the Bond proposal.

A fair minimum wage is the goal. No one who works for a living should have to live in poverty, and I urge the Senate to vote for the Democratic amendment and against the Republican amendment.

Mr. President, this issue is about the number of individuals earning the minimum wage and whose hopes and dreams are in the future. They are about Tonya Outlaw of Windsor, NC, the parent of two girls, ages 6 and 8. She works as a teacher at the Kiddie World Child Development Center. She worked there for 3½ years. She used to work at the Purdue chicken factory, where she used to earn more than minimum wage, but it was not enough to pay for child care. In order to work, Tonya needed child care for her children. Working at Kiddie World provided a solution.

Now Tonya earns $4.25 an hour, and it is very hard to get her family the things they need. She said sometimes it is hard to provide her children with things they need like coats, medicines, and other types of essential needs. Tonya is unable to afford the insurance that they make available at her children's school, and she is unable to provide her children the medicine they need when they are sick. If they increase the minimum wage, she hopes to afford a place of her own, for her family. It is time for her to get a raise in the minimum wage.

It is time for Alvin Vance, who is 45 years old and works picking up residential garbage. He earns the minimum wage of $4.25 an hour. He works 50 hours a week, counting 10 hours of overtime. This provide him with about $200 take-home pay. Alvin receives no health benefits or paid vacation, no paid sick days. If Alvin is sick, he will go to the charity hospital where he can obtain services with little or no charge.

Alvin receives no AFDC, WIC, or food stamps. His rent is $125 a month for a one-room shack in a high-crime neighborhood. He has no car and must get a ride or walk to work, which is 7 miles away. It is time for him to get a living minimum wage.

We heard comments today about the bipartisanship which has accompanied the provisions in this proposal that has been recommended by the Finance Committee. Just to point out once again the bipartisanship which has existed on the minimum wage in the past, Harry Truman in 1949, with President Eisenhower in 1955, President Kennedy in 1961 and 1963—increases; President Johnson in 1967 and 1968, President Nixon and President Ford, 1974 through 1976; President Carter, 1978 through 1981, President Bush, 1990 to 1991. This has been a bipartisan effort.

This is what Senator Bob Dole said in 1974:

> A living wage for a fair day's work is a hallmark of the American economic philosophy.

President Nixon, April 1974, on signing the minimum wage:

> The federally legislated minimum wage for most American workers has remained static for 6 years despite a number of increases in the cost of living. Raising the minimum wage is now a matter of justice that can no longer be fairly delayed.

We go into the more recent years in 1989 and 1990, President George Bush:

> It gives me great pleasure to sign into law the first increase in the minimum wage since 1981.
>
> I have called for an increase in the minimum wage that would protect jobs and put more money in the pockets of our workers. . . I am pleased to sign it. It offers promise of better wages for working men and women.

Senator DAN COATS during the debate on the minimum wage increase:

Let me state that I am one Senator who is convinced that an increase in the minimum wage is justified. I do think that by doing so, we can assist an element of the public, the working poor, often those a step below or just a step above welfare and above poverty. And that since the minimum wage has not been increased since January of 1981, and since it has lost in that time period nearly 20 percent of its value to inflation, then an increase in the minimum wage is justified.

It had lost nearly 20 percent of its value in 1989, and DAN COATS at that time was supporting an increase. Now it is at the lowest level of purchasing power in 40 years, and the economy's strength certainly clearly justifies this increase.

Mr. President, this is an issue about work. It is an issue about children.

The PRESIDING OFFICER. The Senator is advised he has 1½ minutes remaining.

Mr. KENNEDY. I thank the Chair. This is an issue about children, the children of working families that are working hard and trying to make it. This is an issue about women. More than 60 percent of the full-time minimum wage recipients are women. It is an issue about families and family values. It is an issue about the taxpayers, because this is going to lift over some 100,000 families out of poverty, 300,000 children out of poverty, reducing the burden on the taxpayers, on AFDC and the Food Stamp Program and other support programs.

Most of all, it is about work. Are we going to honor work in our society? Are we going to say men and women who play by the rules, work hard 40 hours a week 52 weeks of the year are going to have a living wage for themselves, their children, and their future? That is the option that will be here to vote on at 2:15 and 2:30 this afternoon. I hope we will support Senator DASCHLE's amendment.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, recognizing that we are unlikely here on the floor of the Senate to repeal the law of supply and demand, as many of our Members would like us to try to do, we have included in this debate a tax bill, H.R. 3448, the Small Business Job Protection Act of 1996, which was put together on a bipartisan basis to try to offset some of the negative impacts of an increase in the minimum wage, especially as it relates to increasing unemployment among young people with low skill levels. What I would like to do this morning is talk about some very positive provisions in that bill and explain why I am for the Small Business Job Protection Act of 1996.

I want to talk specifically about four provisions of this bill that I have been directly involved in, and explain to my colleagues why they are important and why it is critical that this bill pass and why we must send a bill to the President which can be signed.

The first issue I want to talk about has to do with agricultural club dues. We have had, since 1987, a running dispute between the Internal Revenue Service and the Farm Bureau about Farm Bureau dues. In this bill, we have a provision that I and others have pushed which says to the Internal Revenue Service that: First, dues to the Farm Bureau are not taxable Farm Bureau income; second, that the Farm Bureau is a nonprofit agricultural research and business promotion institution which is owned by its members; and third, that being part of the Farm Bureau is being part of agriculture.

Interestingly enough, the Internal Revenue Service did not oppose our effort to say to them that in the future, Farm Bureau dues will not be viewed as income to the Farm Bureau. Yet for some unexplainable reason, the Internal Revenue Service has continued to press ongoing lawsuits against Farm Bureaus in Florida, Georgia, Illinois, Kentucky, Michigan, Missouri, North Carolina, Tennessee, Texas, Washington State and Alabama. In these States, there is ongoing litigation—instituted by the Internal Revenue Service—where the IRS is trying to force the Farm Bureau to pay taxes they do not owe.

I do not understand how the Internal Revenue Service can say that they are willing to be supportive of an act of Congress that defines that for all future times, dues to the Farm Bureau are not taxable income, but yet refuses to go back and drop all these lawsuits. We had hoped in the Finance Committee to work out an agreement on this issue. I worked with the chairman and the ranking member who were hopeful that the Internal Revenue Service would issue a position paper saying that it would drop these existing lawsuits, but the Internal Revenue Service has refused to do that.

In fact, Mr. President, I ask unanimous consent that a letter to this effect, from the Assistant Secretary of the Treasury for Tax Policy, be printed in the RECORD.

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

DEPARTMENT OF THE TREASURY,
Washington, DC, June 24, 1996.

Hon. PHIL GRAMM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAMM: This letter is in response to the question you raised at the Senate Finance Committee mark-up held on Wednesday, June 12, 1996 concerning farm bureaus.

Last year, in Revenue Procedure 95–15, we clarified that no tax is to be imposed on associate member dues payments received by tax-exempt agricultural organizations unless the organization's principal purpose in forming or availing itself of an associate member class was to produce income from an unrelated trade or business.[1] The approach in the ruling reflects current law. See National League of Postmasters v. Commissioner, sl. op. (4th Cir. June 14, 1996,), affirming T.C. Memo 1995–205 (May 11, 1995).

While Rev. Proc. 95–15 was being developed, the IRS suspended its examinations of agricultural organizations to ensure that any associate member dues issues that had been raised would be resolved consistently with the analysis in the Revenue Procedure. We are confident that as the IRS finishes the remaining examinations on this issue, it will follow the Revenue Procedure in analyzing the activities of farm bureaus and the income they receive with respect to their associate members.

Of course for periods to which the proposed legislation would apply (Section 1113 of the Small Business Job Protection Act of 1996), the treatment of associate member dues paid to agricultural organizations would follow the statute as amended.

Nevertheless, if there are cases under audit for taxable years beginning prior to December 31, 1994 which cannot meet even the test of the Revenue Procedure, it is not possible to provide administrative relief, other than relief that may be available under section 7805(b) of the Internal Revenue Code. Thus, you should be aware that, because each case will be determined according to its own facts and circumstances, we cannot assure you that the IRS will provide administrative relief in these pre-effective date cases beyond the guidance provided in Revenue Procedure 95–15.

Please call us if you have any further questions.

Sincerely,

DONALD C. LUBICK,
Acting Assistant Secretary (Tax Policy).

Mr. GRAMM. Mr. President, to get to the bottom line, basically, the Internal Revenue Service has said that no matter what Congress does in terms of defining dues to the Farm Bureau as nontaxable income, they are going to pursue these lawsuits anyway. So we will be offering later as part of the managers' amendment an amendment that I have authored which basically says to the Internal Revenue Service, ''We have made a decision in Congress, we want these frivolous lawsuits to be dropped, and we want them to be dropped now.''

This is an issue that should be settled. The position of the IRS is indefensible in the opinion of the vast majority of Members of Congress and is indefensible in the opinion of the vast majority of the American people. We not only want the IRS to stop doing this in the future, we want them to go back to these old lawsuits and end this harassment once and for all.

We are taking a major step in that direction in this bill. In an amendment that the chairman will offer on my behalf later and on behalf of others, we are also going to go back and, in essence, say to the IRS, ''Drop these lawsuits and end this issue once and for all.''

The second issue that I think is important in this bill is also another IRS issue. For some unexplainable reason, roughly 3 years ago, the Internal Revenue Service decided that newspapers

[1] As noted in the Senate Finance Committee report accompanying H.R. 3448, the focus of the inquiry under the Revenue Procedure ''is upon the organization's purposes in forming the associate member category (and whether the purposes of that category of membership are substantially related to the organization's exempt purposes other than through the production of income). . . .''

and paperboys were cheating the Internal Revenue Service. The Internal Revenue Service, in a series of lawsuits filed all over the country against major daily newspapers, said that paperboys—and I use the term ''paperboy'' because there is no comparable gender neutral term in the English language that I have found, and though I was once a paperboy, if someone has a gender neutral term, I will be happy to use it—but until they do, I will use the one that people recognize.

In any case, the Internal Revenue Service has argued that paperboys are not legitimate independent contractors and that they have, in essence, conspired with newspapers to avoid being employees and, in the process, have not paid Social Security taxes, withholding taxes, unemployment insurance, and Medicare taxes. The ultimate objective of the IRS, it appears, is to force paperboys to become employees of daily newspapers.

Mr. President, in the grand scheme of things this is not a very important issue. But I was once a paperboy—I threw 106 newspapers—and for the life of me, I cannot understand why the IRS wants to destroy a system which allows literally hundreds of thousands of young people, both boys and girls, to be independent businesspeople.

If the IRS had its way, it would raise the cost of having a daily newspaper delivered to your door and it would destroy an opportunity that has been part of the American system of small business since almost the colonial period. In my opinion, the negative impact of this approach goes far beyond newspapers and the cost to those who read them.

Let me make the point as succinctly as I can: I am trained as an economist, and at some point in my career I became interested in various historic economic periods in America, the greenback and free silver movement period, and other periods in the 18th and 19th centuries. One of the things which I discovered was that people in the 18th and 19th centuries, for some unexplainable reason, understood economics and understood how our economy works much better than educated people do today.

After having looked at this, I concluded that the reason this was so is that in the world of the 18th and 19th centuries—when most people were farmers or independent businesspeople—most people actually bought things, produced things, and sold things. They were both buyers and sellers in the market at the same time, and because of this, just carrying on their daily business provided a tremendous educational experience for them about how this great economic system works.

Today, when people graduate from college, they go to work for some big company or for the Government, and for most of their lives they specialize in one particular field. They may buy things, they may sell things, they may produce things, or they may even deal with the huge paperwork and litigation trail that often goes with it—but very few people in America today are actually engaged in all facets of any business.

One of the reasons that I have taken on this paperboy issue with a very strong commitment and zeal is that being a paperboy is one of the last jobs left where young people are actually in business for themselves. They buy their newspapers from the newspaper and then sell it to their customers. I bought 106 copies of the Ledger-Enquirer from the local newspaper and delivered it to 106 residences and businesses. I collected the money, as literally millions of paperboys have done since the colonial period, and in the process not only did I earn money, but I learned about how our market system works. I think it is vitally important that we not let the Internal Revenue Service destroy this great educational and business system that is available to young people all over America. So I have championed this provision in the bill that says to the Internal Revenue Service, get out of the paperboy business. Let paperboys be independent businesspeople. Stop challenging their independent status. Do not destroy a great American institution which not only brings the newspaper to our home at 6 o'clock in the morning, at a very low price, but also is a great business and learning opportunity for the young people of this country.

So I am very proud of this provision. Is it going to change the world? No. But for hundreds of thousands of young people all over America, it is going to preserve their opportunity to be an independent businessperson. It is going to preserve a great American institution and it is going to tell the Internal Revenue Service to go make war on somebody else and leave America's paperboys alone.

The third provision in the bill that I want to talk about is the research and development tax credit. This credit came into place in 1981 in an effort to try to encourage American businesses to invest in research and development. If I had the chart with me that I have used around the country, I could show that in every single year since 1970 Japan and Germany have invested a higher percentage of their gross domestic product in nondefense R&D than has the United States of America.

We need more research and development if we want to produce the products of the 21st century, if we want to be competitive in the world market. If we really want higher wages in this country, we should not simply just mandate them in Congress, we should promote investment in research and development. We should promote investments which develop new products, which develop new tools, and which develop new ways of doing things. We need to be the leader of the world in science and technology, and extending the R&D tax credit is a critical part of that effort.

Quite frankly, Mr. President, I am disappointed that we are only extending the R&D tax credit for 18 months. This tax credit should be made permanent because people need to know with certainty that if they undertake a long-term R&D project—that if they try to bring a new product on to the market, or to develop new tools and new techniques, or to bring the power of science to the farm and to the factory—that there will be a consistent and favorable tax policy.

The R&D tax credit is broadly supported on both sides of the aisle. I think it is absolutely imperative that we adopt this bill and put the credit back into place, and eventually I want to make it permanent. This business of taking important features in the tax structure and every 6 months or every year going through the process of redebating it creates uncertainty and it greatly reduces the positive benefit to the country of long-term research, development, and experimentation expenditures by private businesses. So I think it is imperative that we make this tax credit permanent. I am pleased that we are reinstituting it. I see it as a positive step forward, but I do not think we are going far enough.

One final issue: Senator HUTCHISON has sponsored, and I have cosponsored, a bill to eliminate a terrible inequity in the Tax Code. And that terrible inequity is that if you work outside your home and the company you work for does not have a private retirement program, you can put up to $2,000 a year tax free into an individual retirement account. If, however, you decide to stay at home and raise your children and be what is traditionally called a homemaker, you lose the ability to put $2,000 a year into your individual retirement account.

I believe, and Senator HUTCHISON believes, that the Tax Code discriminates against people who decide to stay at home to raise their children and to provide for their family.

I want to make it very clear that neither Senator HUTCHISON nor I are trying to make a value judgment here as to what people should do. My mama worked all during my childhood because she had to. My wife has worked because she wanted to. But the point is this, the Tax Code should not discriminate against people based on whether they make a decision to work outside their home or inside their home.

The provision that is in our bill makes it so that regardless of whether a person decides to take a job in the economy or whether they decide to stay, and work, in their home and to raise their children, they have the equal right to provide for their retirement and to provide for their individual security.

Under this provision we will let a homemaker, as well as someone who works outside the home, set up an individual retirement account, and we will allow them to put up to $2,000 a year tax free into that account. The net result will be to strengthen families and

to allow people who stay at home and raise their children to build up a retirement program like other people can. We will be eliminating an antifamily element in the Tax Code, and, therefore, I think this is an important provision.

I am equally committed to the goal of trying to expand what people can use individual retirement accounts for. Last year, we were successful in both Houses of Congress in opening up individual retirement accounts to allow them to be used to build up a nest egg for a downpayment on a first home, to be used for college tuition, and to be used for major medical expenses. I think this is an important step in creating a lifelong saving program which will not only expand national savings and enrich the country in the process, but will make it easier for people to prepare financially for the expenditures that they are going to have to face during their lifetimes. In making it easier to save, we will make families stronger, we will make people more secure, and we will spread happiness, which is the only legitimate aim of a free government.

I am afraid that with all of our efforts here to defy logic and economics and to repeal the laws of supply and demand that we are going to forget that there are other provisions being voted on today. Individually, they do not represent Earth-changing policy, but getting the IRS out of the business of trying to force the Farm Bureau to pay taxes on dues, getting the IRS out of the business of trying to destroy the independent contractor status of paper boys, extending the R&D tax credit, and letting homemakers have the same right to build up retirement that those who choose to work outside the home have are all important changes in tax policy.

I think these changes will be beneficial to the country as a whole as well as to the individuals who are directly affected. I want to thank our chairman for his leadership on this bill and for allowing individual Members who care strongly about these small issues, which often end up falling through the cracks, to get them into this bill. I yield the floor.

Mr. MOYNIHAN. Mr. President, I congratulate the Senator from Texas for a very careful exposition. I think this is perhaps the first time he has been on the floor as a member of the Committee on Finance.

As many academic theories go, there are problems sometimes with reality. This Senator from New York at age 12 was a paperboy. He had learned if at 9 o'clock at night you bought 10 copies of the Daily News and 5 copies of the Daily Mirror at 96th Street and Broadway and then sold them in places of entertainment along Amsterdam Avenue, if you bought them for 2 cents and you sold them for 5, you had a profit of 150 percent capital that very day. I knew all of this by the age of 13. Somehow by age 16 I had forgotten it entirely. And here I am, looking for Social Security. That is why I insist Social Security will be there.

Thanking the Senator, I have the honor to yield 8 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. The Democratic minimum wage amendment that is pending which I cosponsored is simple and straightforward. It would increase the Federal minimum wage from $4.25 an hour to $5.15 an hour. That is 90 cents over 2 years, not even indexed for inflation.

Mr. President, the increase in the minimum wage for our Nation for working families in our Nation is a matter of simple justice. Mr. President, the Republican alternative to this bill is in many ways, I think, worse than the House-passed bill. It is certainly not a step forward; rather, it is a great leap backward. First of all, Mr. President, the Republican amendment argues that a family would not receive a raise until January 1, 1997. That would deny people an extra $500. That is important. We want this minimum wage to take effect right now. For people who have significant wages, for people who have significant incomes, $500 may not seem like much, but for many families, for many wage earners who just make a little bit over $8,000 a year, that additional $500 is a difference that makes a difference.

Second of all, the Republican alternative would create a subminimum wage that would apply to all workers regardless of age for a 6-month period. Mr. President, this particular part of their alternative I find to be egregious. I know of no other word. In other words, we are saying there will be a 8-month period for wage earners, regardless of age, regardless of experience, regardless of background. They call this an opportunity wage. I, instead, call it an exploitation wage. It to me makes no sense at all. You are 55 years of age, you have been downsized, you had a good job, and you are saying through this amendment, that as a matter of fact, people who have been downsized now have to start out at $4.25 an hour, and for 6 months work at that. They cannot even receive $5.15 an hour. Mr. President, for a 55-year-old out-of-work steelworker in Hibbing, MN, that is not justice. For a 38-year-old waitress in Sauk Centre, that is not justice. For a 27-year-old young man working in a grocery store in Rochester, that is not justice.

To make the argument that is not just teenagers, it is everybody, regardless of their age, regardless of their experience, that for 6 months they make $4.25 an hour, not even $5.15 an hour, I think, is no less than a scandal.

Finally, Mr. President, the exemption, the small business exemption, is unprecedented, it is unnecessary, it creates a two-tier wage structure, and about half of the 10 million or so wage earners and families that would be benefited by this would no longer benefit.

Mr. President, when I look at this alternative and I look at all of the exemptions, I look at all the delays, and all of the rest of it, it is hard to determine under the Republican alternative, who, if anyone, would actually receive an increase even if their bill was to become law. There are so many loopholes and so many exemptions to the Bond alternative that after all is said and done, if it was passed, it is hard to even figure out who would actually receive an increase.

Mr. President, we should have no illusions about this on the floor of the Senate. Justice delayed is justice denied, and the BOND amendment does not represent a step forward.

Mr. President, I would like to talk about this minimum wage debate and this vote, which I think is a historic vote on the floor of the Senate, in a national context and in a family context. I do not think this is a vote really about the minimum wage. I think it is about more than a minimum wage. For the vast majority of Minnesota families and families in this country, they view this as providing a foothold into the middle class. Over 50 percent of the minimum wage workers are adults, they are not teenagers. Over 60 percent of the minimum wage workers are women, and for these women and these men and their families, an additional $1,800 is a difference that makes a difference. It means you can buy the groceries and put food on the table. In a cold weather State like Minnesota you can pay the heating bill. You might be able to afford your tuition at a community college.

Mr. President, this is not about just the minimum wage. It is more important than the minimum wage. This is about the squeeze that families feel. This is about the concerns that people have that their children in their twenties cannot find employment that they can count on. That is to say, a job that pays a decent wage. This is about the concern that people have that they cannot afford to send their kids to college. This is about the concern that people have that they cannot make ends meet. This minimum wage amendment that we have introduced represents a step forward for our country. Justice delayed is justice denied. The Bond alternative does not represent a step forward, Mr. President. It represents a step backward.

Now, I will not go through the whole political economy debate but I will make two final points. Point one, you look at Salomon Bros. report on this and they say if you raise the minimum wage you have people who can consume more and the economy does better and it creates more jobs, and then you have 100 economists that signed the letter, including a Nobel laureate economist, and they say this is a modest increase, it will not lead to a decrease in jobs. We use to have bipartisan support for raising the minimum wage. We used to believe it was the right thing to do. We

used to believe it was a matter of fairness and justice. We should pass this minimum wage in its strongest form.

Mr. President, the National Retail Federation, in talking about the Bond amendment said, ''Passing the Bond amendment is probably our best chance to kill the minimum wage increase.'' ''Passing the Bond amendment is probably our best chance to kill the minimum wage increase.''

Senators, colleagues, if you vote for this amendment, that is what you are doing. You are killing the minimum wage increase. There are so many exemptions built into it and so many loopholes that all of the wage earners and all of the families that could benefit will not be able to benefit. We are not going to be able to fool anybody. You cannot duck and run. You cannot hide. You cannot duck for cover. You cannot look for a political cover vote—and that is what this amendment is.

We should vote for this minimum wage. It is long overdue. It is the right thing to do. I hope that there will be very strong support for it.

Mr. President, let me just finish on a somewhat different note and just reference some of the remarks that my colleague from Illinois is going to make.

I am concerned with the managers' amendment. We now just had a chance to see the specifics. It is very long, very involved, and there are a number of provisions in this amendment that I am extremely concerned about.

My colleague from Illinois I might ask very briefly to speak about an important Supreme Court decision and what is in this managers' amendment.

Mr. SIMON. Yes. There are a number of things. I thank my colleague for yielding.

The PRESIDING OFFICER. The Senator is advised that the time has expired.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I yield 10 minutes to the distinguished Senator from Missouri.

Mr. WELLSTONE. I wonder whether I might ask unanimous consent for 1 more minute so my colleague can finish this.

Mr. GRAMM. Mr. President, if we could amend the unanimous-consent request so that the distinguished Senator from Minnesota has 1 more minute but at the expiration of that minute the distinguished Senator from Missouri be recognized for 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WELLSTONE. I thank my colleague.

Mr. SIMON. I thank my colleague. There are several provisions in here.

First of all, ESOP's—we take away the advantage. We have always said ESOP's are a good thing. Now we retreat on that. Harris Trust is a provision that protects the pension funds. I do not know how much is at stake here; $300 billion is one figure. I heard $500 billion, another figure.

This complicated thing we are acting on without a hearing. I do not think it makes sense.

Then, finally, we are changing the small business provisions on 401(k) plans so that highly compensated executives will have advantages over those of lesser incomes.

I think the managers' amendment is a very bad amendment.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Thank you, Mr. President.

I am pleased to have this opportunity to participate in the debate that relates to the compensation levels received by American workers. It is an important debate, in my judgment, because it allows us to address the problem which is understood by people across the political spectrum and around the country.

The fact is that take-home pay has declined by 6.3 percent since its 1989 level. Americans' tax burden has been going up while their take-home pay has been going down. Currently, we charge people more for government than we have at any other time in history. That troubles me. Americans spend more on taxes than they do on food, clothing and shelter combined.

This concept of wage stagnation, of the flatness of wages, has really caused the American people to be troubled. The Senator from Minnesota, Senator WELLSTONE, recently—in fact, just a few moments ago—talked about the fact that families are struggling to make ends meet, are worrying about how they get their kids to college, are worrying about being able to move into the work force and are worrying about getting the kind of experience which is necessary in order to become productive, long-term workers in our economy.

So I think there is an important condition to be addressed. It is a condition of wage stagnation, of a flatness in terms of take-home pay.

As I spent the last couple of weeks, or almost a couple of weeks, home in Missouri, I worked with workers side by side. I worked with a group of workers in the Eagle Pitcher Corp. which manufactures batteries for use in satellites. I did assembly line jobs and those workers are concerned about their take-home pay. I worked in the food service industry. And, yes, those workers are concerned there about their take-home pay. One day I worked in the apparel industry—in manufacturing of clothing and uniforms. And those workers also are concerned about their take-home pay.

While individuals are concerned about their take-home pay—none mentioned an increase in the minimum wage. They understand that the minimum wage is something that would address only between 4 and 5 million people in this country, and many of those individuals are not full-time workers.

I think we need to address this problem of wage stagnation far more substantially than we would if we were to increase the minimum wage.

There are problems attendant with increasing the minimum wage which would intensify the economic difficulty for individuals, not relieve it. For instance, the Congressional Budget Office indicates that a 90-cent increase would create employment losses in the country from 100,000 to up to 500,000 jobs lost. I do not think we want to craft relief that will cause a significant number of American workers to lose their jobs.

Seventy-seven percent of the American Economists Association responded that a minimum wage increase would have job losses that are substantial.

Even the Democratic Leadership Council opposes a minimum wage increase. Even the Clinton administration understands this concept. Secretary Reich, in a letter to President Clinton, dated July 20, 1993, wrote: ''A full assessment of where to set the minimum wage should consider a wide range of factors beyond its income effects on the working poor. After all, most minimum wage workers are not poor.''

So if we really want to try to increase the take-home pay for individuals, I do not think the minimum wage is a very good way to do it.

First, many of those who are on the minimum wage are not poor people. About 57 percent of these workers are in households with income of over $45,000.

Second, we do not want to shrink the job base for this country in the process of helping people.

So what kinds of alternatives are there for helping people with flat wages which also do not shrink the job base but grow the job base, which do not just address 4 to 5 million people but address 70 or 80 million people? What are the kinds of things that we can do to provide relief that really would help families—generally—across the board, rather than focus on less than 5 percent of the American work force?

I believe that there is such an opportunity, and I have offered it in the U.S. Senate. Almost all of the individuals who speak so eloquently in favor of the minimum wage voted against this proposal. But the truth of the matter is this proposal would help almost 80 million workers instead of 4 million workers. It is something that would grow the job base of the United States by a half million jobs instead of shrink it by a half a million jobs.

It would be something that would allow a broad base of Americans to have more take-home pay rather than just helping a few. It is this—right now, as Americans pay more in taxes than we have ever paid in history, we pay double taxes on the Social Security taxes which we have deducted from our paychecks. It is money we never see.

The money actually is taken by our employer and sent to the Government. It is the Social Security tax of 6.2 percent of our income. Then we are later charged income tax on that same tax which we have already paid.

If we were to allow this tax to be deductible to ordinary workers like it is deductible to corporations which pay the other half of the Social Security tax, we would have a $1,770 impact on the average two-earner working family, and that would benefit 77 million-plus workers instead of 4 million-plus workers. It seems to me, if we want to address this challenge in our culture, which has recognized the flatness in take-home pay, we ought to do it on a broad base for Americans rather than a narrow base, and we ought to do it in a way that grows this economy rather than stunts the economy.

As the economists have indicated, a mandated increase in the minimum wage could result in up to 500,000 jobs lost. However, the economists have indicated there would be 500,000 jobs gained if we were to provide this kind of tax relief to American families.

I think we ought to find ways to grow ourselves into helping people out of wage stagnation rather than stunt the economy and hope there would be those who would benefit as a result, in spite of the fact we had substantial job losses. The reasons are substantial to provide deductibility of our Social Security taxes which we pay from our income taxes.

First, it is necessary to eliminate this double taxation on American families.

Second, corporations which pay the other 6.2 percent of a person's earnings in order to make the total combined 12.4 percent of earnings, deduct their share—yet, the average worker cannot deduct their share. This fundamental lack of fairness, this disparity in tax treatment between the corporate side and the individual side should be resolved.

Finally, if we really want to help American workers. We ought to be looking out for workers generally rather than a very small segment of workers, many of whom are only part-time employees. Many of whom are the youngsters like my children. They began work in the fast food industry. Well, some 40 years ago I began work in the fast food industry myself, or at least in the ice cream industry. I do not think there was really fast food in those days. But I think we ought to find a way to help American families generally, and we can help American families generally by providing tax relief for American families generally. It is tax equity because it would give the American family the same tax break that the American corporation enjoys. It would be tax fairness because it would stop a double taxation on American families. And it would help grow the economy rather than slow the economy, which is the way we ought to try to move people ahead in terms of their own wages.

That ought to really be the focus of our endeavor. We ought to try to benefit families generally. We ought to try to provide help and assistance to the 70 or 80 million wage earners that could be assisted from this proposal rather than limit our assistance to the 4 million or so individuals who are involved in the minimum wage category.

I believe there has been an appropriate recognition, a diagnosis, if you will, of a discomfort in the American body politic. The diagnosis is for wage stagnation. I believe we can remedy that by providing tax relief for American families generally, rather than seeking to focus our efforts on a very small segment of the American population.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator's time has expired.

Mr. ASHCROFT. Mr. President, if my time has not been consumed, I would reserve the remainder.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MOYNIHAN. Mr. President, I yield 8 minutes to the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 8 minutes.

Mrs. BOXER. I thank the Chair. I thank very much Senator MOYNIHAN who has been working so hard to put together a measure this body can pass and feel good about. I thank him specifically for helping us with some very important provisions dealing with pension protection for widows. Without going into those details, I see that it has been included in the managers' amendment, and I am very grateful because what happens many times, I say to my friend, is that when a person loses a spouse—in this particular case I am talking about, it is usually a woman left in a circumstance where the pension that they were receiving together drops from 100 to 50 percent, and there are ways to fix that so the couple gets two-thirds in pension, so that there is no dropoff after a death. What we have been saying is that this option ought to be available, and the committee, on a bipartisan basis, has recognized this, and I am grateful to all sides on that.

On the other issue about which I rise to speak, I am not as pleased because I am worried. I am worried that while we take up the minimum wage, there will be enough votes to carry what I consider to be an egregious loophole, and I think if it does pass—and I am very hopeful it will not—what we will be doing here today really is more of a sham, because we have information which says that if the Bond amendment passes—and I know my friend from Missouri really believes it is the right thing to do, and I respect his view; I just do not happen to agree with it—if the Bond amendment would pass, 50 percent of those who would get a minimum wage increase would not get that increase.

I think that would be a little bit akin to going to a birthday party for twins, and you can imagine two little children 6 years old, 7 years old, and you give a gift to one and nothing to the other. I do not think anyone in America would do that. I do not think we should treat our working people that way. Simply because one works for a large corporation and another for a small should not mean that we punish the one who works for a small corporation. By the way, the definition of such a corporation is $500,000 in business, which is not exactly a mom and pop operation. And so I am worried about this vote today. I am excited, frankly, that we finally come to the point where we have a chance to vote for a clean minimum wage. I am not so sure the body will do so.

Really, the question today is whether there will be a straightforward increase in the minimum wage, which is at a 40-year low. That increase will go soon to the people at the bottom of the economic ladder that my friend from Massachusetts, Senator KENNEDY, I think, has described so well—who these people are and what they do. They are at the very bottom of the American economic ladder. They work very hard. They earn well below the poverty level. We are calling for a slim dime-an-hour increase for those people over 2 years—over 2 years. I think we ought to just do that the way we have done it in the past.

Again, the Senator from Massachusetts has pointed out that under President Nixon we have done it, under President Bush we have done it, under President Kennedy we have done it, under President Carter we have done it, and we really did not set up a two-tiered permanent system. We never did that before. We should not do it now. We have never set up a subminimum wage. We have never done that before. We should not do that now.

I just want to point out to my colleagues that the issue of the minimum wage in many ways is about people who are struggling to earn money for their families, and many of them are women. As a matter of fact, most of the people on the minimum wage are adults, and most of those are women.

There is a particularly egregious part of the Bond amendment that I hope Members will look at and vote against. That has to do with those workers at the bottom of the ladder who count on tips—in other words, waitresses and waiters and others. Now, again, these are the people who work with the sweat of their brow, and they go home at night and they can barely stand on their feet. I want you to know that 80 percent of those people are women. They are women. What we are going to do here is freeze in their minimum wage because, under the current law, people who count on tips get half the minimum wage. Actually, it used to be 60 percent, but we changed that in the 1980's. They get half the minimum wage and then they get their tips to

compensate. In the Bond amendment we freeze that at the current half of the current minimum wage, and therefore those folks are frozen in place and they are going to go down the economic ladder.

Why would we do that when we have a chance today to send a message, Republicans and Democrats alike, that we think everybody ought to be brought along in this economic recovery? We hear there is good news out there. There is good news out there. There is more to be done, but we are seeing that unemployment rate go down.

So my message here this morning is this: Why do we not just do the right thing? Just do it. Just vote for an increase in the minimum wage the way we have done for so many years. And this argument that, oh, jobs will be lost and it will be inflationary—if we had that attitude we would still have people working for 50 cents an hour. If we truly believed that every single minimum wage increase was going to bring loss of jobs we never would have increased the minimum wage. Why do we not do the right thing today?

Mr. President, I hope we will defeat the Bond amendment and pass a clean increase in the minimum wage.

Mr. MOYNIHAN. I thank the Senator from California.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The Senator from Utah, [Mr. BENNETT], is recognized.

Mr. BENNETT. Mr. President, one of the things that continues to amaze me in my service in the Senate is how we, in this body, spend all of our time projecting and conjecturing about the future and not much time looking at the past in an attempt to find out if there is a model that can give us a more sure understanding of the future than the projections of professional pundits and economists. In this debate on minimum wage, we do have a clear model from the past which illustrates what happens when the minimum wage is raised. I want to spend some time this morning talking about this model.

By coincidence, the best summary of this model appeared in this morning's New York Times. Under the headline, ''Thesis, Rise in Wages Will Hurt Teenage Group,'' we have the following:

> At one time, Sidewinder Pumps Inc., in Lafayette, La., would hire a dozen or more young people to work each summer at minimum-wage jobs like weeding or expanding the parking lot—tasks that were not really essential to the company but that let it give teenagers a taste of what paid work is like.
>
> When the Federal minimum wage went up in the early 1990s, the company cut back to three or four summer workers. And this year the prospect of another increase led the company to end this quarter-century tradition.

The last time Congress raised the minimum wage this company cut back the number of minimum wage earners. Now, some are proposing to raise further the minimum wage and this company is now eliminating more jobs. This situation is not theory, but actual experience, actual practice.

The article goes on to give us some statistics:

> In March 1990, just before the Federal Government raised the minimum to $3.80 from $3.35, 47.1 percent of teen-agers had jobs, but that promptly began a slide that carried it down to less than 43 percent a year later, when the $4.25 wage kicked in. The figure then tumbled to 39.8 percent by June 1992 before slowly recovering to 43.2 percent now.
>
> ''The timing of the drop in teen-age employment is absolutely coincident with the increase in the minimum, whereas for other groups the recession's bite was delayed,'' declared Finis Welch, an economics professor at Texas A&M University and a prominent student of the subject.

In other words, the last time the minimum wage was raised, the group that was hurt the most, in terms of unemployment, statistically and historically, was teenagers. The article states:

> Black teenagers, often most in need of basic job skills, fared even worse. At the beginning of 1990, 28.8 percent of this group held jobs. But lack of hiring and dismissals drove this down to 22.5 percent by January 1991 and to a low of 20.4 percent in August 1991. Not until April 1996 did it recover to 28 percent.

In other words, they started out at 28 percent. The minimum wage was raised, and black teenagers saw employment go all the way down to 20 percent. It has taken 6 years to get back to 28 percent. And now some want to again raise the minimum wage so that black teenagers can see their employment go back down, the way it did the last time the minimum wage was raised.

The article continues:

> ''Teenagers shouldered a disproportionate share of the burden'' even after allowing for their ranks contracting from demographic trends, said Erich Heinemann, an economist at Brimberg & Co., a Wall Street firm. ''To a very significant degree,'' he added, ''the 1990–1991 recession was a teenage recession.''

The article summarizes:

> [Some have] found the 1990–91 experience persuasive.
>
> ''The last increase turned out to be a cruel joke for low-skilled teenage workers,'' he declared. ''To the extent that the minimum is raised high enough to positively affect wage levels,'' he contended, ''it will negatively affect the demand for labor.''

Like many in this body, I worked as a teenager. I started out when the minimum wage was 40 cents. You do not earn a lot of money at 40 cents an hour. Frankly, the money was not the most important reason for me to work. It seemed important at the time, in fact, it seemed like a tremendous boon to me because I was earning more money than I received in allowance from my parents. But looking back on it, the most important thing I gained from working at age 14, was the experience of going to work: Showing up on time, staying the full work period whether I was bored or not, punching out at the proper time, dressing in proper attire—the kinds of experiences which I find far more valuable than the money. We are denying these experiences to more and more teenagers when we raise the minimum wage. Fortunately, the amendment by the Senator from Missouri will allow many teenagers to continue to have the work experience that this Senator had when he was a teenager.

For me, the lessons learned from the last increase in the minimum wage are persuasive. We should learn from the past. We should learn from what happened last time and be very, very careful about raising it this time.

At the risk of sounding more demagogic than I would like, I say to teenagers who lose their jobs, to black teenagers who see a repetition of what happened in 1990–91 when they appealed, ''Where did the jobs go,'' the answer might be, ''Talk to the senior Senator from Massachusetts. In the name of trying to help you, he has fashioned a program that has destroyed your jobs.''

I know the Senator from Massachusetts does not have that motive. I know he is acting out of the best of intentions. But I say that past experience in raising the minimum wage indicates that history will repeat itself and we will again see jobs lost. I plead with the senior Senator from Massachusetts in the name of the teenagers whose jobs will be destroyed, to examine past history and do his best to see to it that we do not repeat the mistakes made 6 years ago.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I am happy to yield 8 minutes to the junior Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts, [Mr. KERRY], is recognized for 8 minutes.

Mr. KERRY. Mr. President, thank you very much. I thank the Senator from New York.

Mr. President, let me address some of the concerns that were just raised by the Senator in Utah. The facts show that through the years, there may be individual instances where there is a tailoff in the numbers of teenagers who might be hired by a particular company but, broadly speaking, the number of teenagers who are helped by the increase in the wage is much greater. The fact is that any company that requires a certain amount of work to be done is going to pay somebody a wage to do that work that they want to get done. They are not just hiring teenagers as a matter of altruism.

Generally speaking, we in the U.S. Congress have recognized our responsibility to make up for that gap so that teenagers have the very opportunity that the Senator from Utah talks about. That is why historically we have had a Summer Jobs Program, until our Republican friends in recent years have seen fit to zero it out—zero it out.

The basic issue here remains the same: What are we willing to give in America as the value of an hour's work? We decided that in the late 1930's, and under every President since then, Republican or Democrat alike, with Republican votes and Democratic votes—we have raised the minimum wage. And with what impact, Mr. President? With the impact that unemployment has gone down and the wages of more Americans have at least come up closer to the poverty level.

My friend from Texas earlier said we should not monkey with supply and demand. But this is the same Senator who is down here voting to preserve the wool and mohair subsidy. If that is not monkeying with supply and demand, not to mention all of the pages in here of different tax provisions, subchapter S provisions, depreciation allowances—we monkey with it every single day. The question is, For what social purpose do we do that?

The fundamental issue before the U.S. Senate is, for people who work hard and play by the rules, do they deserve a raise? Not a handout—a helping hand up, yes, but not a handout. The way you send that message is to value the work with a living wage.

We have done that before, Democrats and Republicans alike. We have raised the minimum wage closer to the poverty line, not a great level, but that is what we feel we can do in the best balance against job loss and other market forces.

I acknowledge there are market forces. We do not want to monkey with the level that is so high that you would, in fact, generate enormous unemployment. But the proposed increase would not put our country in danger of reaching that level.

In Vermont and Massachusetts, we raised the minimum wage at the beginning of this year. New Hampshire and New York refused to raise the minimum wage. Unemployment in Massachusetts and Vermont went down. Unemployment in New York went up and New Hampshire went up.

Mr. President, it is clear historically that raising the minimum wage may create minor dislocations. My friend talks about one company laying off five people in this article in the New York Times. Five people who are kids, teenagers at the minimum wage, let's say 8 weeks of employment, if they take some time off in the summer, is $288. So we are now being told that a company is going to deny a teenager $288 for 8 weeks of work. It is hard for me to believe that if that job was necessary, that company is not going to produce enough product or sell enough goods to make up $288 for a teenager to work. What we need is a little more ethic in America where our corporations understand an obligation to try to hire teenagers, to try to pay people a decent wage.

We know the statistics. We are living in a country that now has the third highest number of poor children since 1964. Two-thirds of the people on the minimum wage are adults, not teenagers, and most of them are women. In my State of Massachusetts, almost 5 percent of the children in Massachusetts live in families where at least one parent works full-time but the family still lives below the poverty line. Nationally, more than 2 million children live in families which would get a raise if the minimum wage is increased to $5.15 an hour.

The question is, should these children and their families get an increase in the minimum wage, and should the Congress fill the gap to help those teenagers have a summer job? Then everybody benefits correctly and we do not create a Hobson's choice of denying both of them everything: No summer jobs and no minimum wage, and the country can get poorer together. That is really what we are talking about here.

We have heard this argument year in and year out. We keep hearing it: ''Oh, if you raise the minimum wage, America isn't going to get stronger.''

From 1938 to now, look at the number of jobs we have created, look at the increased strength in America, look at the stock market go up. Last year, the stock market went up 34 percent in 1 year, and corporations took record profits. But the consumer debt in America went up. The consumer debt in America is at the highest level in history.

So we are going to vote today on whether or not someone at the bottom of the economic ladder who has seen their income decline and their wages decline in the last years is going to get an opportunity to work for less than three-quarters of the rate of poverty.

If you work at the minimum wage in America a 40-hour week, 52 weeks a year, you earn $8,500 a year. Try and live on that. The poverty level for a family of four is $16,000 a year. The poverty level for a family of three is $12,500. Can we not even find it in our capacity, where we have the most expensive, rich pensions in American history, where we have a salary—all of us —at $130,000 a year, to raise the minimum wage for people working at the bottom of the economic ladder? That is the test of the conscience of the Senate today.

The efforts of the Republicans to come in with an exemption for two-thirds of the companies in this country is wrong. In combination with the rest of their amendment, one-half of the people working for the minimum wage would be denied an increase. This is a vote over right and wrong, and I think history has proven that it is right to raise the minimum wage.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. KASSEBAUM. Mr. President, I yield 10 minutes to the senior Senator from Colorado, Senator BROWN.

The PRESIDING OFFICER. The Senator from Colorado, Senator BROWN, is recognized for 10 minutes.

Mr. BROWN. Mr. President, I thank the Senator from Kansas for her kindness in yielding time.

We are debating today as if one side is in favor of raising wages and the other is not. With all due respect to my dear colleagues, I suggest that is not the question. Both sides are in favor of wages going up. As a matter of fact, anyone who serves in the U.S. Congress, ought to have at the center of what they are here for an effort to promote and improve the lives and the compensation of the working men and women of America.

However, there is a real and a legitimate difference of opinion about how you increase wages, and compensation. Many of my colleagues sincerely believe Government is the way to set prices for products and services in an economy. But let me point out that countries that have taken that philosophy to an extreme, that have put that philosophy into effect in a broad range of both services and goods in a market have had disasters. There is no question as to why countries have abandoned socialism across the world. They have abandoned it because it is a disaster.

The real price-setting mechanism that is efficient and productive and perhaps most carried, in terms of job opportunities, is a market system. To suggest the Government is the right one to determine the right wage for every individual is absurd.

Perhaps some will vote for this because it does a little damage, and I think in some areas that is probably true. But the problem with it is this says more than simply set a wage; it says it is illegal for someone to work a job that pays under a certain amount, even if that person wants to. It becomes illegal for you to take that job even if there is no other job available.

I hope Members will take a look at who this legislation impacts. We have heard the passionate rhetoric from people, many of whom have never held a minimum wage job in their lives. I think sometimes you can be more impassioned when you have not had that opportunity. But, Mr. President, the ones who are primarily affected are not necessarily four-member families. The ones who are primarily affected are people who are getting their first job, oftentimes teenagers. Do we want them to do better? Absolutely. But no one should vote on this measure without realizing what its impact is going to be.

I look back on the jobs that I had as I grew up. I think of them because they were very, very important in helping me understand how to work, how to be productive, how to accept responsibilities. One of the first jobs I had was as a dishwasher in the local restaurant down the street. It was a job on Friday or a Saturday night. I was not a Catholic, but I was very thankful for Catholics because they had an affinity for fish on Friday nights. This restaurant served fish and thus had a job for a dishwasher.

That job has been eliminated now. The higher costs have encouraged them to automate much of the function. Yes, they still have some dishes, but now it is different. Two things have happened. One, they have automated, and, two, the higher cost of labor has caused many restaurants to skip recyclable dishes and simply use paper plates. Those who go to McDonald's or Burger King or many of the other fast food restaurants know what that means, but they may not understand the jobs that are lost because we have the fast food operations.

I was a lawn boy. It was a great job. I worked 40 hours a week in high school, long days on Saturday and Sunday. It is the way I paid my way through school. Most of those jobs are gone now, at least in the area we were in. Not all of them, but in the area we were in, many of them no longer put in the kind of vegetation that needs the intense care that it did. Some of them, thankfully, are still available. But this change in wage will affect the job opportunities that are available to kids.

I was a busboy and a waiter. Those jobs with fast food restaurants have largely been dropped. I worked in a service station for 4 years. Those jobs primarily have been dropped, not all of them but most of them. You have now self-service in your filling stations. I assume we have a whole generation who does not really know what a full-service gas station is. It used to be a great source of jobs for teenagers.

Mr. President, the point is this, this measure will have an impact, not necessarily on the families, but will have an impact on jobs available to kids. Mr. President, you ask yourself, what happens to kids who get out of school at noon—and there are a lot of school districts in this country that end at noon or 12:30; in Colorado I know there are some that end at 12:30 and 1 o'clock—and there is no one home because mom is out working, as my mom was, until 6 o'clock at night or 7 o'clock at night?

Ask yourself what happens to a teenaged boy—I say teenaged boy because I think the propensity to get into trouble is greater for them than for girls; but I suspect both are subject to that problem. You ask what happens to them with little homework from their schools and 4 or 5 hours off in the afternoon and no job.

Mr. President, I can tell you what happens. All you have to do is look around this country and see what happens. You deny those kids jobs, and you do not keep them busy, you create a crime problem and a juvenile problem of epic proportions. No one should look at what happens in this country today and not understand that the absence of job opportunities for teenagers and for high school kids, both male and female, is a major factor in the rise of juvenile delinquency.

So, Mr. President, people will vote on their philosophy. Some will say they are doing something to help out low-income people. But, Mr. President, we also should keep in mind what we do to young people when we deny them job opportunities. We reduce the chance to learn, the way to earn your way out of poverty. I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I have the great pleasure of yielding 8 minutes to the distinguished Senator from Illinois, a scholar and a friend.

The PRESIDING OFFICER. The Senator from Illinois, Senator SIMON, is recognized for 8 minutes.

Mr. SIMON. I thank my colleague from New York, and I thank him for his leadership.

I strongly support the minimum wage and I oppose the Bond amendment. The speech that my friends from Colorado and Utah just made about teenagers, if the Bond amendment said, let us not apply it to those under 18, then, frankly, I might even consider voting for such an amendment. I think that would make a little bit of sense. I do not think the Bond amendment, as it is constructed, does make sense.

Raising the minimum wage clearly is needed. I hear the phrase ''welfare reform'' around here a great deal. But 95 percent of it is not welfare reform. This bill raising the minimum wage probably will do more for welfare reform than all the bills that are called ''welfare reform'' around here because you give people a chance to earn a little. You give them an option.

Twenty-four percent of our children in this Nation live in poverty. No other Western industrialized nation has anything close to that. If you need a good argument for campaign finance reform, look at what is happening in the minimum wage. What if the people at the minimum wage were big contributors? Would we have this kind of a problem? The minimum wage would pass overwhelmingly. And this is a women's issue; 58 percent of the people who draw the minimum wage are women. We ought to be doing better than this.

Having said that, Mr. President, I am concerned about some provisions in the basic bill, the small business provisions, and the managers' amendment which I am going to ask for a vote for and will oppose. On the basic bill, we knock out the incentive to banks to finance ESOP's, the employee stock option plans. This is a legacy of Senator Russell Long, and it is a good legacy for our country. ESOP's should be encouraged, not discouraged. Let no one fool themselves; knocking out this financial incentive for ESOP's virtually kills the chance for additional ESOP's in this country.

Second, the modification of the 401(k) plans. Here it is geared to helping people in the higher income brackets. Here is a letter from the American Academy of Actuaries. Let me just quote from this letter.

There is likely to be increased discrimination in favor of highly compensated employees. Such redistribution of contributions in favor of higher income workers could tarnish 401(k) plans to the extent that they would no longer receive the support needed in Congress to justify their cost to taxpayers.

Under current law, if lower income employees put in 1 percent, or defer 1 percent, higher income employees can defer 2 percent. There is a whole series of limitations. Under this proposal, if a lower income employee puts in 1 percent, the higher income employee can defer 9.5 percent. It is clearly for the benefit of those in the high-income brackets who work for corporations.

Then, finally, Mr. President, in the managers' amendment, which is a procedure under which we put this in—and we did not have a chance to modify it, no amendments; and the same on these other provisions that I just talked about—this reverses the Hancock versus Harris Trust decision in the U.S. Supreme Court. It is an ERISA thing. I have to tell you candidly—I see the chair of our committee here, and she knows this—I do not know that much about ERISA, and, real candidly, I do not think anyone in the U.S. Senate really understands ERISA. It is a very complicated thing.

I do know this, that we are moving back on safeguarding the pension funds of workers with this amendment. What the Harris Trust decision did was, it said that the John Hancock Co., when it set aside pension funds in stocks, had to meet the ERISA standards. But what John Hancock was doing was taking these other funds and putting them—let me read the Supreme Court decision, the group annuity contract No. 50, which is what they call it there.

Group annuity contract No. 50 assets were not segregated, however. They were part of Hancock's pool of corporate funds or general account out of which Hancock pays its cost of operation and satisfies its obligations to policyholders and other creditors.

They do not think they had to meet ERISA standards. The Supreme Court said you have to meet ERISA standards here, and the managers' amendment, with all due respect to my friends who are sponsoring this, the managers' amendment reverses that decision and says that insurance companies, when they do not have these fixed stocks and put the rest in the general pool, they continue to do that, out of which they take all these expenses.

Let me just point out one unusual feature of this bill. Mr. President, you have been here a while in this body and in the other body. Listen to this: ''The amendment made by this section shall take effect on January 1, 1975.'' Have you heard about a bill like that before? Why does this take effect January 1, 1975? To protect insurance companies who have abused these pension funds so they do not have to meet ERISA standards. That is not good legislation, my friends. We ought to be protecting pension funds, not loosening the protection.

I have great respect for Senator MOYNIHAN, Senator ROTH, Senator LOTT,

and Senator DASCHLE, but I think this is a move in the wrong direction. The managers' amendment ought to be defeated. We should not reverse that Supreme Court decision. Justice Thomas wrote the dissent and took the side of the insurance companies. The U.S. Senate, with this vote, will take the side of the insurance companies. There is huge money involved. I was told about $300 billion in assets are affected here. I received a call from our former colleague, Senator Howard Metzenbaum, who said, ''You are wrong. It is $500 billion.'' I do not know what it is. Maybe it is $100 billion. Whatever it is, it is a lot of money. We ought to be doing everything we can to protect pension funds, not to move in the other direction.

Mr. President, when the time comes on the managers' amendment, I will request a vote. I will vote against it. I know what the situation is and I recognize that I will be outvoted but I want to make clear I am not part of moving in this direction.

Mrs. KASSEBAUM. Mr. President, I yield myself 2 minutes from the leaders' time.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. KASSEBAUM. If I may respond briefly to my good friend and colleague and member of the Labor Committee as well, some clarification on the Harris Trust. I have spoken earlier to it and I will not reiterate. I certainly agree, ERISA is complicated. It is something all of us struggle to understand.

In this particular situation, as I pointed out, the administration is strongly for this. This particular language in the managers' amendment does not overturn the Harris Trust. What it does is require the Labor Department to issue guidance by March of next year as to how insurance companies are to deal with pension plans in the future. Because the Supreme Court decision created some concerns about how these would be handled as plan assets, there needs to be a clarification. Until that clarification is given, much is in doubt, and many workers will be seriously hampered by uncertainty regarding their pension plans and how it would be counted as a plan asset.

I just suggest to the Senator from Illinois, we made two changes which we hoped would address some of the concerns that had been raised by the Senator from Illinois. One was the legislation would not grant relief from proceedings based on fraudulent or criminal activities by insurers. I know that had been a concern. That language is now clearly stated. Second, that the legislation gives the Secretary of Labor authority to ensure that insurers do not engage in prohibited transactions prior to the issuance of final guidelines.

I had hoped that might take care of some of the concern of the Senator from Illinois.

Mr. SIMON. If my colleague would yield.

Mr. MOYNIHAN. I yield to the Senator from Illinois.

Mr. SIMON. Mr. President, I am happy to respond. Some of what the Senator says is correct, and I appreciate the changes that were made. I do think this area is complicated enough we should have at least had a hearing. Here we are passing this massive change without a hearing. I think it is not a good way for a legislative body to proceed.

Mrs. KASSEBAUM. Mr. President, just to respond, we have considered this in the last Congress as well. We have not had a full-blown hearing but it is something Senator Metzenbaum, as part of the Labor Committee in the last Congress, raised. It has been under consideration for some time as all parties were trying to find common ground. It was hoped this was the common ground that would succeed.

Mr. MOYNIHAN. Mr. President, I yield 8 minutes to the Senator from Connecticut.

Mr. DODD. I thank my colleague. I commend my colleague from New York and others who have been responsible for putting this matter together. Before getting to my comments on the minimum wage, let me also address the issue raised by our colleague from Illinois that our colleague from Kansas responded to, and that is dealing with the Harris Trust matter.

Mr. President, let me say categorically and unequivocally to you, Mr. President, as well as to our colleagues, there is nothing in the managers' amendment that reverses the Harris decision by the Supreme Court—nothing at all. To put it briefly here, for 20 years the industry had operated on a set of guidelines established by the Department of Labor. No action was brought by the Department of Labor. It relied on the guidance as a means of how they did business dealing with pensions. In fact, no one can demonstrate any wrong that was done at all.

The Supreme Court reached its decision in 1993 and and said using the guidance of the Department of Labor is invalid. The Court also in the decision then recommended that the Department of Labor or Congress establish new guidelines and regulations by which these pensions would be regulated. The Department of Labor thought it would be better if Congress acted and they acted on their own, and it ought to be done statutorily rather than by regulation. So for the past year and a half the Department of Labor, the industry, and those of us who have been involved in this matter, have spent about a year and a half putting together this amendment that is prospective, deals forward, and sets up a series of regulations that will not go into effect until next June, after serious consideration.

We do not establish the regulations, the Department of Labor does. What those who are opposed to us doing this have in mind is that they want to have the retroactivity and to go back into those 20 years that the industry was allowed, through no action at all, to operate under Department of Labor guidances. Obviously, it could be a windfall to the trial lawyers to go back and bring actions based on 20 years of practice. We are trying to respond to that decision at the direction of the Court and to do so in a comprehensive, thoughtful way. That is what we have done.

I point out that the language of this amendment dealing with the Harris Trust passed the committee 14 to 2 in a bipartisan vote. A lot of effort went into this. I commend my colleague from Kansas, Senator KASSEBAUM, who did a remarkably fine job, along with her staff. Bob Reich, the Secretary of Labor sent a letter to the chairman of the committee, Senator KASSEBAUM and Senator KENNEDY urging adoption of this legislation. They spent a long time at it. As our colleague from Illinois pointed out, ERISA is complicated, but to suggest somehow we are reversing the Harris decision is just totally, completely, fundamentally incorrect.

What we are trying to do is deal with a situation that, if we do not address, puts pensioners at risk by leaving the situation with only the Harris decision and no corrections being made.

So I say, with all due respect to those who oppose this, this is a windfall, or could potentially be something that the trial lawyers would love to dive into for 20 years based on the Harris decision. We are saying, for 20 years that is how it operated. No one complained about it. No wrong was done. We are correcting a situation.

I commend those who have been involved in this for bringing us to the point where we are going to finally straighten this matter out, as it should be.

For those reasons I hope, at least on that basis, that our colleagues will vote against the managers' amendment that deals with a number of issues.

Let me now reach, if I can, to the substance of what is the major debate and argument, and that is dealing with the minimum wage increase.

Mr. President, I ask unanimous consent that the sum and substance of my prepared remarks be printed in the RECORD.

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

MINIMUM WAGE

Mr. President, nearly 6 months ago, President Clinton came before a joint session of Congress with a commonsense proposal—increasing America's minimum wage from $4.25 to $5.15 an hour.

Considering that we've joined together in the past—in a bipartisan manner—to raise the minimum wage and lend a hand to working Americans, this would seem to be a straightforward initiative.

However, since January 1996, the snow melted, the temperatures swelled, and the flowers began to bloom, but for America's working families the minimum wage remains very close to a 40-year low.

Because, over the past 5½ months, the Republican leadership in Congress has utilized every possible tool to block this legislation.

They've tried to convince the American people that raising the minimum wage will cost jobs—even though study after study shows this to be untrue.

They raised erroneous economic arguments—even though 101 economists, including 3 Nobel Prize winners, endorse an increase in the minimum wage.

They've asserted that minimum wage recipients are wealthy high school kids flipping hamburgers—even though more than 73 percent of minimum-wage workers are adults.

Even though more than 47 percent are full-time workers and 4 in 10 are the sole wage earner for their families.

Now today, after nearly 6 months the Republican leadership in Congress is finally giving the Senate an opportunity to cast a vote on the minimum wage.

But, it seems just as we climb one mountain, my colleagues across the aisle put another one in the way.

Because what we have before us today is not an amendment to increase the minimum wage.

Instead we have an amendment that would eviscerate the minimum wage.

Under the provisions of the Bond amendment one would be hard pressed to find any American who actually would benefit from this phony increase.

First of all, it would exempt an entire category of Americans from the minimum wage's benefits—namely the 10.5 million who work for companies that make less than $500,000. That represents two-thirds of all workplaces.

Second, the Bond amendment would delay any increase until January 1, 1997.

So after making working families wait nearly 6 months for Congress even to vote on a minimum wage, Republicans would make Americans—struggling to get by—wait an additional 6 months to see any benefit. But, that's only the beginning.

Exemptions in the Bond amendment would force working Americans to wait 180 days after starting a new job before receiving a minimum wage increase.

This provision along with the delay in implementation until January 1, 1997, would mean America's working families would, at the earliest, not receive the benefits of an increased minimum wage until July 1997.

Now, I know my colleagues across the aisle say this provision is necessary to protect small businesses.

Well, I say, what about working families? Who will protect them?

Certainly not this legislation. Because under the Bond amendment working Americans would be at the mercy of their employers.

There is absolutely nothing in this amendment to stop a business from paying a new employee at the subminimum wage for 179 days, firing them, and then turning around and hiring a new worker, whom they could then pay at the same subminimum wage.

Under the Bond amendment, there is little incentive for a business to keep a new employee for more than 180 days and provide a minimum wage increase.

Instead, for millions of American workers struggling to work their way out of poverty and make ends meet, their newfound paychecks would be replaced by pink slips or another subminimum wage-paying job.

Well, Mr. President, in my State of Connecticut and throughout America, working families cannot afford to wait any longer for a real increase in the minimum wage.

And if we're going to be truly serious about helping those Americans that work hard and play by the rules, then an immediate and unequivocal increase in the minimum wage should pass by a unanimous vote.

Now, I realize that the Democratic proposal of an extra 90 cents an hour may not seem like a lot.

But, raising the minimum wage would benefit nearly 12 million Americans.

For those Americans who are struggling to get by at $4.25 an hour this increase represents $1,800 in potential income.

Raising the minimum wage could pay for 7 months of groceries, 1 year of health care costs, or more than a year's tuition at a 2-year college.

Today, the annual income of a minimum wage worker is $8,500 a year—well below the poverty level for a family of three, which is $12,500.

In fact today, nearly one in five minimum wage workers lives in poverty.

How can any American expect to bring themselves out of poverty or pull themselves up by their bootstraps when they're expected to raise a family on $8,500 a year?

The fact is, at the present rate minimum-wage workers have little hope of ever earning their way out of poverty.

But if the rate is increased the dream of reaching the middle class becomes attainable.

Over the past year I've heard a lot of talk from the other side of the aisle about encouraging responsibility and a strong work ethic among our Nation's welfare recipients. I think it's something we can all agree upon.

But, it's utter hypocrisy to talk about encouraging responsibility while we ask our Nation's poorest citizens to live on a meager wage of $36 a day.

I know my colleagues on the other side of the aisle like to claim that raising the minimum wage would cause unemployment.

But, according to The New York Times a 90-cent minimum wage increase would probably eliminate fewer than 100,000 of the approximately 14 million low-paid jobs in the economy. That's less than a 1 percent loss.

In addition, studies done after the minimum wage was raised in 1990 demonstrate that not only did it have a negligible effect on job loss, but in some locales it actually brought higher employment.

The fact is, a higher minimum wage is not only a stronger incentive to work, but it reduces turnover, increases productivity and lowers cost for retraining and recruiting.

The minimum wage is not, and should not be, a political issue.

In fact, I am pleased to see that members from both sides of the aisle are coming to the realization that low-wage workers in this country deserve a pay raise.

The Republican amendment before us today would leave millions of Americans mired in poverty, barely able to make ends meet and struggling to put food on the table.

Today, we have an historic opportunity to reverse that trend and lend a helping hand to millions of America's working families.

I strongly urge all my colleagues to reject the Bond amendment and continue the bipartisan tradition of supporting the minimum wage as a living wage for working Americans.

Mr. DODD. Mr. President, I am saddened by this day that we are involved in a lengthy debate about the increase in the minimum wage. This should not be happening. It really should not be happening. We are talking about a 90-cent increase over 2 years. It has been 5 or 6 years since we have had any increase at all.

The notion somehow that a family—remember, more than 73 percent of the people who get the minimum wage are over the age of 20. If you are on the minimum wage and you are age 20, it is not inconceivable that you are raising a family. We are not talking about teenagers. Few are over the age of 25. Some are. Obviously, then the number comes down. You have a sizable number of people between the ages of 20 and 25. But to suggest somehow that you can live on $36 a day—that is what the minimum wage is—$36 a day, with more than 73 percent of the people earning the minimum wage over the age of 20, and that we can't find it here possible to come up with a 90-cent increase for those people.

If you will just consider the great debate we had here over last year's welfare reform, one of the major matters of debate and concern is, how do you avoid people falling back into dependency and on to public assistance? How do we get people who are living on welfare to move from welfare to work? That has been the subject of major debate and discussion here.

How ironic, indeed, in this day in July that we are now going to potentially reverse or deny the opportunity for people who are making a minimum wage today, to get a modest increase over the next 2 years. With the minimum wage close to a 40-year low in terms of earning power, how do we prevent people from tumbling back into welfare?

It seems to me that this ought to be passing unanimously on a voice vote. This ought not be the subject of an acrimonious debate on minimum wage at the very hour we are trying to move people from welfare to work. How can we say to people that if you get a minimum wage job, the most you can hope to make is $8,500 a year or $36 a day? I do not know of anywhere in America that you can live on $36 a day any longer. In fact, that is almost $4,000 less a year than is the poverty level for a family of four—which is $12,500.

Frankly, as our colleagues know, there is no illusion. The Bond amendment is designed to just blow significant holes through the minimum wage and would take away from the roughly 10 million people who would otherwise qualify for the minimum wage and deny them the opportunity—those 10 million Americans—from seeing any benefit from a minimum wage increase.

Our colleague from Minnesota earlier pointed out the benefits of $1,800. That is what a minimum wage increase of 90 cents amounts to—$1,800 a year. With $1,800, you could afford a year of health insurance for yourself, or at least participate in health insurance. It is more than a year's tuition for the average 2-year community college, $1,800 a year. Think what a benefit that might be for someone at that minimum wage level trying to better themselves, trying to improve themselves, to be able to get an education, to move themselves further along, to avoid tumbling back, as I said earlier, into a life of dependency on State, local, or Federal welfare;

$1,800 a year could buy groceries for a family for 7 months.

So while I know people say we have to protect small business, I understand that. But of one study that I have seen done, says of the approximately 14 million low-paid jobs in the economy that could potentially be affected—there may be fewer than 100,000 jobs that would be adversely affected by a minimum wage increase. One of the most conservative studies done says 100,000 people out of 14 million people.

I appreciate and understand the concern of wanting to protect small businesses. But how about protecting these people out there that we talk about all the time, who are getting off welfare, staying off welfare, and going to work? They need protection as well.

Lastly, I would point out, as someone earlier did—I believe my colleague from Massachusetts—we have now done away pretty much with the summer JOBS Program. Again, what an irony indeed that we would be sitting here today talking about youth employment at the very time we ought to be trying to put kids to work during the summer. Then we turn around and deny, of course, a minimum wage increase that could potentially affect and benefit those younger people, as well, who would be looking for some employment, to be able to participate and contribute to their own educational needs and costs of participating and contributing to their family's financial needs.

I will conclude as I began on this point. Again, I am saddened by this debate. This should not be happening—this debate.

This is something that we passed and which has enjoyed strong bipartisan support. When President Bush took the leadership on it, it had bipartisan support. We have spent so many weeks. We have gone from the winter now into the depths of summer arguing for an increase in the minimum wage. I think it is a sad day, indeed, for this body.

So I urge my colleagues for the remaining hour or so which we have before the vote to search their souls on this issue and support this minimum wage increase, and oppose the Bond amendment, which would gut this effort.

I thank my colleague.

Mr. MOYNIHAN. I thank my friend from Connecticut for clarifying most particularly the provision in the managers' amendment concerning the pension fund. I hope they listened to it carefully, and also the remarks of the chairman of the Committee on Labor and Human Resources, the senior Senator from Kansas.

Mr. President, I yield 8 minutes to my distinguished friend and neighbor from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Thank you. I thank my good friend from New York State. We have the privilege of living parts of the year in the northern parts of our two States. I commend him for the strong work that he has done on this. He has been a stalwart supporter, as well as the Senator from Connecticut and the Senator from Massachusetts, of the question of the minimum wage.

Mr. President, it really comes down to this: Working Americans deserve the opportunity to earn a decent wage.

It has been more than 5 years since the last increase in the minimum wage. You would think when it has been more than 5 years, that would be enough reason to increase the minimum wage, just that issue alone. But during the last 5 years, living costs have not stood still. In fact, the cost of living has gone up.

Since 1991, the average monthly gas bill has gone up. Since 1991, the average monthly electric bill has gone up. In fact, in my home State of Vermont, where many Vermonters use wood stoves to heat their homes, and when it is 20 below zero—that is not a luxury in heating your homes—but since 1991, the average cost of a cord of wood has gone up. But throughout all this time, the minimum wage has stayed the same.

The basic living costs of working Americans in every area—food, heat, shelter, transportation—have gone up. But the minimum wage has remained the same.

In fact, the minimum wage is at a 40-year low, as far as its buying power. The minimum wage earner today grosses only $8,840 a year.

I defy anybody in this body to try to raise a family on that amount of money. But there are people who do.

In Newport, VT, the most rural area of my home State, Brian Deyo and his family have been trying to do just that. In fact, the Wall Street Journal reporter met Mr. Deyo and his family and wrote the article about the sheer harshness of life on the minimum wage.

Mr. Deyo works full time in a hockey stick factory. He brings home $188.40 a week. A lot of the time he and his wife have had to choose between paying rent, or buying food, or paying the medical expenses for a chronically ill daughter.

They talk about sometimes during especially tough times, Mr. Deyo will take his last $5 and go down to the hardware store and buy a box of bullets to go hunting in the Vermont woods because that is the only way his family is going to eat. And he will go out there and hope that he gets lucky and finds a deer.

But I think Mr. Deyo said it better than any of us ever could. He said, and I quote him, ''I'm proud to be a working man. I only wish I could make a living.''

So I ask unanimous consent that a copy of the Wall Street Journal article about Brian Deyo and his family, entitled ''Minimum Wage Jobs Give Many Americans Only a Miserable Life,'' be printed in the RECORD after my remarks.

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

(See exhibit 1.)

Mr. LEAHY. But as the Wall Street Journal points out, Brian Deyo is not alone. Many working families depend on the minimum wage. In fact, 73 percent of those affected by the proposed minimum wage increase are adults. Many are trying to support their families on a minimum wage, and that minimum wage has been mauled by inflation. This should be a bipartisan issue.

The distinguished Senator from Connecticut just said, as others have, the last time it was raised it was—I believe my good friend from New York will agree with this—under a Republican President, and the time before that, the Senator from New York reminds me. We had Republicans and Democrats joined together on this. The last minimum wage increase, which was a 2-year 90-cent increase just like the one that is under consideration today, received overwhelming bipartisan support when it was voted on in 1989. In fact, it passed the House by a vote of 382 to 37—better than 10 to 1. It passed the Senate by a vote of 89 to 8—again, better than 10 to 1.

Back then, Senator Dole and Speaker GINGRICH voted for raising the minimum wage, but today some of my colleagues on the other side of the aisle fiercely oppose any raise in the minimum wage. I find it ironic that some of the same Senators who would vote to give tax breaks to the wealthy are against giving working families a raise. Some have said they will fight with ''every fiber of their being'' the idea that a person who works 40 hours a week could make as much in a year as Members of Congress make in a month.

So let us not play politics with the lives of working families struggling to live on the minimum wage. We need to pass a minimum wage increase now. I hope my colleagues will support Senator KENNEDY's amendment and support this bill to make the minimum wage a living wage.

Let us be serious about what we are talking about. Let us think, would any of us accept for ourselves or our families the basic minimum wage today? Would any of us accept the idea that our family, members of our family, would try to support a family, whether it is our children, our siblings, cousins, or anybody else, at the minimum wage?

They cannot live on it in Vermont. They cannot live on that in California or Texas or, frankly, Mr. President, in any State in this country. So let us let the Senate at least stand up and do the right thing.

Mr. President, I yield back to the Senator from New York.

EXHIBIT 1

[From the Wall Street Journal, Nov. 12, 1993]

THE WORKING POOR: MINIMUM-WAGE JOBS GIVE MANY AMERICANS ONLY A MISERABLE LIFE

IN RURAL VERMONT, SOME GO WEEK TO WEEK, HOPING NO MAJOR BILLS HIT THEM

HUNTING BEAR FOR THE TABLE

(By Tony Horwitz)

NEWPORT, VT.—On payday, Brian Deyo's sole purchase is a $4.96 box of cheap bullets known as ''full metal jackets.''

Mr. Deyo works full time at a hockey-stick factory. He takes home $188.40 a week. After rent and utilities, that leaves about $20 for food—and no margin at all for misfortune, such as the one Mr. Deyo now faces. Vermont's brutal cold hit freakishly early this fall, and he must buy heating oil three paychecks ahead of plan.

''Every day I'm making choices,'' says Mr. Deyo, who has a wife and a chronically ill two-year-old daughter. ''Do I pay the rent and risk having the power cut? Or do we take a chance on both and buy food?''

This payday, the choice is clear: He's two weeks late on the rent, and the fuel tank must be filled. Unable to afford food, he will hunt for it. Stalking through the icy woods beneath the Green Mountains, Mr. Deyo mulls his life. At age 28, he senses he has done something wrong, but he isn't sure what. ''I'm proud to be a workingman,'' the son of two factory workers says. ''I only wish I made a living.''

''Making work pay'' has become a Clinton administration catch phrase, but one that appears increasingly hard to fulfill. Put simply, the aim is to lift working Americans above the poverty line—a threshold that Mr. Deyo and 9.4 million others currently don't reach. Almost 60% of poor families have at least one member working. ''Someone who plays by the rules and tries to work full time should be able to support a family,'' says Lawrence Katz, chief economist at the Labor Department.

However, with universal health insurance—one means toward achieving this goal—under siege, the administration has retreated from another. In late October, after arguing for months that a modest rise in the minimum wage is needed to help pull workers out of poverty, Labor Secretary Robert Reich shelved his campaign until after Congress votes on health-care reform. This delay was welcomed by business groups, which argue that an increase would cost jobs because employers would automate, relocate overseas or cut staff to recoup higher labor costs.

But what's often obscured by such policy debate is the sheer harshness of life in low-wage America. The minimum wage—currently $4.25 an hour—was mauled by inflation in the 1980s and now provides an income so meager that welfare recipients often do better if they turn down jobs paying it. A full-time minimum-wage worker grosses $8,840 a year—$2,300 under the poverty line for a family of three. In 1979, the same worker earned $459 above the line.

The depressed minimum wage also anchors the bottom end of a pay ladder so low that even people who, like Mr. Deyo, climb up a few rungs are still in poverty. In fact, such workers often are worse off than those earning $4.25 an hour because they are more likely to be adults and heads of households qualifying for little or no government assistance. Many minimum-wage workers are young part-timers with other income from spouses or parents.

''Families where the main breadwinner is making $5 or $6 an hour—these are the people who are really hurting,'' says Gary Burtless, a labor economist at the Brookings Institution. This largely forgotten group also helps account for the 44.3% jump in the number of working poor between 1979 and 1992.

America's working poor are mostly white, mostly high-school educated and disproportionately rural—a profile that is typified by the three-county corner of Vermont known as the Northeast Kingdom. This bucolic landscape of moose crossings, maple-syrup stands and scarlet foliage also harbors 10% unemployment, closed mills and ramshackle homes.

Barbara Stevens runs a crisis center in Newport, a town of 4,700 that is a two-hour drive from Burlington. The morning after the first big chill, her office was crammed with disheveled people unprepared for the winter and seeking help. Many were on their way to work. ''They'd say things like, 'I've got two kids and no oil in the furnace, so we slept in the car last night with the heat on,' '' Ms. Stevens says.

One such visitor is Mr. Deyo, the hockey-stick worker. Late paying his bills, he has had his electricity disconnected several times. This is a special calamity for Mr. Deyo; his daughter has asthma and relies on a ventilator. Letters from Ms. Stevens and local doctors have helped him to get his power switched back on.

Ironically, Mr. Deyo is earning more than he ever has. After years of minimum-wage jobs, he gets $5.50 an hour stenciling trademarks onto hockey-stick blades. His annual gross income is so near the poverty line that now he qualifies for very little public assistance. In principle, this suits him fine; he's a former National Guardsman and a conservative Republican wary of government and liberal ''do-gooders.'' But in practice, just a minor setback—even a blown-out tire on his 1980 Buick—sets off a cycle of late bills, ruined credit ratings and shakey employment.

Though the cost of living here is low, his take-home pay of $188.40 a week barely covers his fixed costs: $60 rent for a cramped apartment, about $40 for heat, $40 for power (high because of his daughter's ventilator and humidifier), $10 for gasoline and $15 for installment payments on the family's few possessions. The Deyos can't afford a phone. That leaves about $20, mostly spent at a discount market that sells dented cans and crushed boxes.

''We don't buy taped boxes because the food could have spilled on the floor and been scooped back in,'' says Roxanna Deyo, who stays home because she is loath to put her frail child in day care.

The Deyos also live in terror of small shocks that can knock them off their tightrope budget. Three years ago, for instance, their car developed transmission trouble. Unable to afford a $500 repair bill, Mr. Deyo had to abandon the car—and his job cleaning kitchens at a ski resort more than an hour's drive away.

Soon afterward, the Deyos, seeking work in higher-wage Massachusetts, sold all they owned to go there. But they ran out of money before finding jobs. Two years later, they are still making payments on the used, now-tattered furniture they bought on their return north. Many needs are put off indefinitely. Plagued by painful, rotted teeth, Mr. Deyo waited two years until he was laid off and eligible for Medicaid before having a few pulled.

Week to week, the Deyos still cling to one luxury. To ''break the constant tension,'' Mr. Deyo says, he buys a take-away dinner every Saturday, usually a plain pizza costing $5.99.

''I feel like I'm doing what I'm supposed to do,'' says Mr. Deyo, who dreamed of studying forestry when he graduated from high school but couldn't afford the fees and went to work at McDonald's instead. ''I work hard, my family's together. But I'm running just to stay where I am, which isn't a real great place.''

His most recent frustration: an attempt to free his family of rent—and of their grim quarters—by purchasing a $24,000 trailer to park on his parents' land. A local bank refused his loan request, citing ''excess obligations'' and ''insufficient income.''

One upbeat note: the Deyos, who anxiously await their annual rebate from the earned-income tax credit to catch up on bills and buy appliances, should see the amount double in early 1995 to about $3,200 because of a recent change in the law.

A growing number of Americans share the Deyos' plight. Lawrence Mishel of the Washington-based Economic Policy Institute says 28% of adult workers are at wage levels too low to keep a family of four out of poverty, compared with 21% in 1979. He also notes that their privation has deepened: 14.3% of adult workers now earn wages below 75% of the poverty line, triple the 1979 percentage.

Mr. Mishel and other economists cite various reasons, such as the decline of manufacturing jobs and of unions in an ever-more technological economy. In addition, minimum-wage increases, which tend to bump up the whole bottom of the pay scale, didn't occur between 1981 and 1990. That especially hurt young workers, such as Mr. Deyo, who began working during the 1980s at the minimum wage and have edged up very slowly ever since.

However, the depressed minimum wage may have kept alive some jobs that otherwise would have vanished. Along Newport's railroad tracks, in an old flour depot, American Maple Products Corp. employs 40 people bottling syrup and making candy Santas and other treats. The family-owned company is typical of the light, often-marginal businesses that employ many low-wage workers nationwide.

''Maple candy,'' the company's president, Roger Ames, dryly observes, ''is not your basic growth industry.''

Starting most workers at the minimum wage, Mr. Ames ekes out profits of 3% on sales from what he admits is a creaking plant. At one conveyor belt, nine people fill jugs with syrup, then cap, date and box the jugs by hand—a task, Mr. Ames says, that costly new machines can perform with two workers. Nearby, two people run a 50-year-old device that drops candy into molds, while other workers use their fingers to smooth the fuzzy edges left by the plant's old tools.

''If you're paying the minimum wage and it takes 20% more time to do a job than it should, it doesn't seem that critical,'' Mr. Ames says.

He adds that a 50-cent increase in the minimum wage would cost him about $100,000 a year and force him to ''take a hard look'' at labor-saving machinery. He would stop replacing workers who leave or retire and go to a peacework system that might penalize older employees.

''I don't have a sweatshop mentality,'' Mr. Ames says. But he says neither he nor other employers are likely to raise their pay simply out of charity, particularly in a competitive industry. ''If you had someone who mowed your lawn every week for $5, would you reach in and pay $10 the next week?'' he asks.

Moreover, he is under no pressure to raise pay because few employers deviate from the prevailing wage. The result: an uncompetitive labor market that traps low-skilled workers even as they climb the pay scale. Connie Lucas went to work at American Maple 12 years ago at the minimum wage and now earns $6.10 an hour. With a weekly take-home pay of only $151.50, and worried

about the plant's future (her husband also works there), she decided to seek another job.

''But every opening offers the same—$4.25, $4.25, $4.25,'' the 35-year-old Ms. Lucas says. ''I can't afford to work another 12 years just to get back to where I am.''

Bonnie Buskey wonders whether she can afford to work at all. Last spring, both she and her husband were unemployed and received about $1,000 a month in public assistance. Now, he works in construction, and she works full time at American Maple at the minimum wage. Together, they bring home about $1,200 a month.

But Ms. Buskey pays a baby sitter $2 an hour to look after her two girls for part of the day, slicing her real wage during those hours to $2.25. And now that the Buskeys are off welfare, they no longer qualify for Medicaid. Unable to afford health insurance, Ms. Buskey spent a week's pay on a recent visit to the dentist and lives in dread of serious illness.

''The message from the government seems to be, 'Stay home, vegetate in front of the TV, and you'll be better off,' '' the 29-year-old says. Asked why she doesn't, she shrugs. ''Good old American pride. I like to think that I earn whatever I get.''

In fact, some people do quit jobs because they can do better on benefits. Ms. Stevens, the Newport social worker, says she feels forced to advise jobless people to turn down work at or near the minimum wage. ''I have to tell them, 'The job's good for your soul and good for your mind but not for your pocketbook,' '' she says.

Trapped at the bottom by the low minimum wage, such workers also must compete with people sliding down the pay ladder. At the hockey-stick factory, Mr. Deyo's brother-in-law and co-worker, Garth Shannon, has never worked for the minimum wage. His first job after finishing high school was at a shoe factory that paid $9 an hour. But after a wage dispute, the plant moved to the Dominican Republic, and Mr. Shannon has bounced down the pay scale ever since, enduring plant closings, layoffs and menial jobs.

''Most people plan for when things get better,'' says the 35-year-old Mr. Shannon, who wears thick glasses on which he pays monthly installments. ''I try to plan for when things get worse.''

As a foreman, he is among the factory's best-paid workers, earning $5.95 an hour. But with a family of five, his poverty is even worse than Mr. Deyo's. He heats his jerry-built home with a wood stove in which he burns old doors and other scrap timber salvaged from abandoned houses. He burns kerosene lamps to save on electricity. Like the Deyos, the Shannons can't afford a telephone. They also couldn't afford a foundation when they built the house seven years ago; stones and wood props keep it from sliding downhill.

A conservative man with a fierce work ethic, Mr. Shannon has urged his wife to work part time rather than stay home with their youngest daughters, age five and eight. As a nursing-home housekeeper, who earns $4.61 an hour and brings home $20 a week after baby-sitting bills. ''Work is what made this country great,'' says Mr. Shannon, who has draped an American flag across the front of his house.

But as he cooks home-made pizza for his girls, he confesses to occasional despair at how little his labor provides for his family. the worst moment came when his five-year-old's kindergarten class took a day trip to a zoo in nearby Canada. The Shannons couldn't afford the $12 bus fare and were too proud to borrow. ''We kept her home that day so she wouldn't feel bad about missing the trip,'' he says.

David Price, Mr. Shannon's and Mr. Deyo's boss, is sympathetic. He helped pay for Mr. Shannon's glasses and recently gave him his own children's outgrown clothing. But like Mr. Ames at American Maple, Mr. Price doesn't need to raise pay to keep his 13 workers; he has 500 job applications on file.

So Mr. Price does small things, such as treating workers to a birthday lunch. In October, it was Mr. Deyo's turn. Devouring a prime-rib sandwich, he confides that it is his first meal out in six months. Mr. Price also gives workers a turkey at Christmas and a ham at Easter; Mr. Deyo still has a bit of ham left, in his freezer, ''for emergencies,'' he says.

But there is little else in the larder. So, on payday, after banking his check to cover the rent, Mr. Deyo buys bullets and drives to his brother-in-law's home. The two men hike off in search of an animal Mr. Shannon recently spotted in a cornfield. ''I've never eaten bear,'' Mr. Deyo says excitely, toting a used military rifle he bought for $80. ''But they look like they have a lot of meat on them.''

The two men soon find tracks but no bear. At dusk, after two hours of tramping through dense woods, Mr Deyo spots a crow—''edible if you cook it just right,'' he says. But he can't get close enough for a shot. Frustrated, he aims at a chipmunk. Mr. Shannon talks him out of it. ''There wouldn't be enough meat there for a sandwich,'' he says.

Exhausted and cold, the two head back. Mr. Deyo tosses his gun in the trunk. Mr. Shannon touches his brother-in-law on the arm. ''It could have been worse,'' he says. ''At least we didn't waste any bullets.''

Mr. MOYNIHAN. Mr. President, may I just thank the Senator from Vermont. The remark by Mr. Deyo, ''I'm proud to be a working man. I only wish I could make a living,'' needs to be underscored.

Mr. HELMS. Mr. President, in the first place, raising the minimum wage is a political issue, not an economic issue. In order to adjust the perspective, it should be remembered that the Senator from Massachusetts may be revealing a bit of a forked tongue on this phony political issue.

That is why I am supporting the Lott-Bond amendment which honestly and clearly addresses the real issues of this debate.

For years, Senator KENNEDY served as chairman of the Senate Labor and Human Resources Committee—prior to his losing his chairmanship in the 1994 elections. To my knowledge the issue of minimum wage increase was never brought up, even once, by Senator KENNEDY during the 2 previous years before he lost his chairmanship.

But, Mr, President, I recall that in 1995, when the State Department reorganization bill became the pending business in the Senate, there he was, the same Senator from Massachusetts, who was the first to pop his head up and begin as the lead-off filibusterer among the Democrats who had their orders to stymie a bill that would have saved the American taxpayers billions of dollars while clearing a lot of dead wood from the U.S. foreign policy apparatus.

And what was the subject of Senator KENNEDY's filibuster? He was shouting at the top of his voice about the dire need to raise the minimum wage—a subject, bear in mind that had prompted not a peep out of Chairman KENNEDY during those years when he headed the Senate Labor and Human Resources Committee.

But now, the political issue of raising the minimum wage is before the Senate and, at the outset, it would be unfair to the American people to fail to warn them that if the minimum wage is raised, the American economy is likely to suffer in a number of ways. Americans—particularly teenagers, minorities, and low-skilled workers—can expect a significant loss in job opportunities. Moreover a mandatory wage increase will result in countless small businesses throwing in the towel. It has always happened, and it always will.

Increasing the minimum wage will therefore harm the working poor and high school and college students. It will not help them. According to a respected University of Chicago economist, Kevin Murphy, every 10-percent hike in the minimum wage reduces job availabilities by 1 percent, with the greatest loss of jobs occurring among the working poor, and among students.

This is why I support the Bond amendment which will curtail some of the harsh effects of a minimum wage increase. The Bond amendment will exempt small businesses from the increase in the minimum wage, and it will allow for a training wage for newly hired employees for the first 6 months. As we all know, most new jobs are created by small businesses.

The Wall Street Journal confirms Professor Murphy's warning, saying,

> . . . to the degree that economists ever reach a consensus on anything, they concur that the minimum wage increases unemployment among low-skilled workers. What's clear is that anyone in the White House with an economics degree has been told to hold his or her nose while the political types try to relaunch the Clinton presidency on a minimum-wage hike.

Mr. President, while proponents of a minimum wage increase tearfully pretend to be concerned about the welfare of America's least well-to-do citizens, I dare say the proponents are really interested in the next election. As I stated at the outset, this minimum wage issue was locked onto the back burner when the Democrats controlled both ends of Pennsylvania Avenue. In fact, President Clinton never even mentioned the minimum wage, not once, when Mr. Clinton's party controlled Congress in 1993 and 1994.

Then when the Democrats lost control of Congress, there came the minimum wage issue drowning in phony tears. And with it, the crack of the whips of the powerful labor union bosses. When all that happened, President Clinton made haste to mention the minimum wage issue more than 47 times.

Mr. President, let's play just suppose: Just suppose Congress and the President do increase the minimum wage, what can the American people expect?

The warning has come time after time from bipartisan economists—loss of jobs, higher labor costs, and consequential higher prices for American consumers.

Economists at the Heritage Foundation, for example, estimate that a 90-cent increase in the minimum wage will result in more than 200,000 fewer entry level jobs in 1999. Furthermore, according to an article in The Wall Street Journal ''Lawrence Lindsey, a governor at the Federal Reserve Board, says internal staff studies suggest a 90-cent increase would reduce employment by about 400,000 jobs over the long term.''

Retail prices will, in turn, increase through 1998 because employers will pass their increased costs on to the consumers, with the consumers being hit hardest. Unemployment among teenagers will increase by an expected 20 percent and will put an end to many entry-level jobs. This, of course, will deny young unskilled people the priceless opportunity to gain work experience.

Labor costs for small businesses, and larger ones as well, will increase, forcing many business owners to make substantial adjustments in the way they do business in order to stay afloat.

How will employers deal with these new demands imposed on them by the Federal Government? They will, of course, pass the costs on to the consumers, raising prices for food, goods and services. Many will have to eliminate employees, or reduce benefits to employees—or both. Even new Democrat economist Rob Shapiro concedes as much.

Proponents of the increase in the minimum wage want to keep secret the fact that 80 percent of minimum wage earners are not below the poverty line. To the contrary, a high percentage of minimum wage earners are members of middle-income families. The Bureau of Labor Statistics confirm that 37 percent of minimum wage earners are teenagers. The vast majority of high school and college students are working at summer jobs, not struggling to feed their families because they are secondary wage-earners in their families.

Moreover, many of these minimum wage earners in fact take home more than $4.25 an hour. The Bureau of Labor Statistics confirms that ''Just over half were employed in retail trade, and another one-fourth worked in services. It should be recognized that for many working in these industries, tips and commissions may supplement the hourly wages received.''

So let the record be clear—despite the statements of Senator KENNEDY and other proponents of raising the minimum wage—the babble of voices is trying to sell political nonsense. If Congress really wants to help America's working families, it would reduce taxes instead of increasing the minimum wage.

Twenty-eight million households would benefits from a $500 per child tax credit—but Mr. Clinton vetoed that idea.

In North Carolina, 758,648 households would have more take-home money with the $500 per child tax credit. But only 42,876 of those households would benefit from the minimum wage increase.

Mr. President, I receive thousands of letters each week, and one of them came from Bruce Stakeman of Durham, a small business owner. In explaining the minimum wage to his son, Jeremy, Mr. Stakeman said:

I told (Jeremy) that I had a very large yard of 4 acres and would pay him $1 for him to cut. He said no way! I don't blame him. $2.? No. $3.? No. This went on until we reached the dollar amount for which he would be willing to cut my grass. I told him this was the minimum wage. He agreed. If a 13-year-old can understand this, why is it so hard for well educated people in Washington to?

Mr. President, I ask unanimous consent that Bruce Stakeman's letter be printed in the RECORD at the conclusion of my remarks.

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

Mr. HELMS. Mr. President, one doesn't have to be a rocket scientist to understand this issue. It's simply a matter of common sense, and reviewing Thomas Jefferson's ideas about the free enterprise system.

The American people deserve better than to be misled by political schemes. After all, in the mid-thirties, when President Franklin D. Roosevelt signed the Social Security legislation into law, he warned that this program must never be allowed to become into a political football.

Mr. President, look at who's booting around this political football.

EXHIBIT 1

ENVIRONMENTAL TECHNOLOGIES, INC.,
April 18, 1996.

Hon. JESSE A. HELMS,
Raleigh, NC.

DEAR MR. HELMS: This is my response to the desire of the liberals to raise the minimum wage. My thirteen year old son and I were in the car when the news came on the radio, about President Clinton's desire to raise the minimum wage. Having owned a small business and managed others I understand the problems associated with its raising. I then began to explain this to my son, Jeremy.

Suppose you owned a small business. Let's say for this example we use a restaurant and minimum wage is $4.00 per hour. You have five teenagers employed making $4.00 per hour. You as the employer have taken the chance to start a business and give people a chance to earn a fair wage. You are making a living, but not getting rich. I then asked him, the government tells you that you have to pay the new minimum wage of $5.00 per hour. You want to maintain your standard of living, what do you do? He responded, you could raise your prices. What might happen, I asked? You might lose some of your customers. What else could you do? You could let one of the employees go. Now you have an unemployed person drawing unemployment compensation.

Then we discussed what the minimum wage should be? I told him I had a large yard of four acres and would pay him $1.00 for him to cut it. He said, no way! I don't blame him. $2.00? No. $3.00? No. This went on until we reached the dollar amount that he would be willing to cut my grass. I told him this was the minimum wage. He agreed. If a thirteen year old can understand this, why is it so hard for well educated people in Washington to?

In Durham, just about everywhere I go has a help wanted sign on their window. Never have I seen a sign for minimum wage, most start at $5.00 per hour. As you see I am opposed to raising the minimum wage. It may mean the difference in my son getting a starter job where he can learn how to work outside the home. Thank you for this opportunity to express my opinion.

Sincerely,

BRUCE A. STAKEMAN.

Ms. MOSELEY-BRAUN. Mr. President, I rise in support of the Small Business Job Protection Act of 1996. This legislation will help small businesses invest, grow, and create new jobs. I am pleased to be able to say that this is a bill that enjoys bipartisan support; it is a testament to the progress that can be made when Senators from both sides of the aisle work together.

This bill increases the level of investment by small businesses that can be expensed, rather than capitalized and depreciated from the current $17,500 level to $25,000. It reforms subchapter S corporation laws, most significantly by increasing the maximum number of shareholders in an S corporation from the current 35 to 75. And it gives business employers a number of other tools designed to promote job creation, expansion, and prosperity.

To further stimulate job creation, the bill creates a new tax credit, the work opportunity tax credit. This new credit replaces the current targeted jobs tax credit program. The work opportunity tax credit encourages employers to hire people from populations suffering from high unemployment, who are on government assistance, or who have limited education. The work opportunity tax credit would also create incentives to hire 18 to 24 year olds who are on food stamps for 90 days, which will promote self-sufficiency and help prevent these individuals from returning to the welfare system. By creating this new category for 18 to 24 year olds, employers will have an inducement to hire young people who are all too often overlooked. Additionally, the minimum employee work requirement would be reduced from 500 to 375 hours. This will enable employers to benefit from the credit to compensate for job training costs associated with hiring individuals that generally need extra training and attention.

This bill not only helps small businesses, it also expands opportunity for education, which is a priority of mine. I was delighted to work with Chairman ROTH to ensure that employer-provided educational assistance was retroactively reinstated and extended for graduate education. However, I am troubled by the failure of the House to extend the program for graduate-level study. I firmly believe that employer-provided educational assistance should

be a priority within this bill, and I hope that this can be resolved in conference.

I am very pleased to have had the opportunity to work with Members on both sides of the aisle for the inclusion of the Spousal IRA Equity Act. For the first time, women who stay at home to care for the family's children will have the ability to place the same amount of money in a tax-free IRA as men who work outside the home. Each spouse, including whichever spouse is the family homemaker, will now have the opportunity to make a deductible IRA contribution of up to $2,000 a year.

This bill partially corrects another problem area that affects millions of women. Earlier this year, I introduced the Womens' Pension Equity Act of 1996. I am pleased to see that this small business tax legislation includes two of the most important provisions from my women's pension bill. One provision requires the IRS to create a model form for spousal consent with respect to survivor annuities. Another provision would require the Department of Labor to create a model qualified domestic relations order form.

Pensions are often the most valuable financial asset a couple owns—earned together during their years of marriage. Unfortunately, it is now all too easy for a woman to unknowingly compromise her right to a share of her spouse's pension benefits in case of divorce if both spouses do not sign a complete QDRO form. These provisions would make it more likely that women will be able to protect their rights to pensions.

This legislation also extends for 6 months the currently expired excise tax on commercial airline tickets. This 10-percent ticket tax has historically been the principal source of funding for the aviation trust fund. Since the tax expired last year, however, the fund has been without a revenue source, and has been spending down its balances.

The ticket excise tax was designed to ensure that users of our aviation system played a major role in financing of the Federal Aviation Administration, and these revenues have been used to help the FAA enhance airline safety, and ensure that the airline industry safely meets the needs of the traveling public. Without this revenue, the long-term ability of the FAA to perform its safety mission could be put at risk.

I therefore support the short-term extension of the ticket tax. However, commercial aviation has changed radically since the ticket tax was first imposed in the 1970's. The old system may no longer be appropriate to today's aviation industry—or tomorrow's. I therefore urge the administration to use the 6-month period provided by this bill to evaluate whether the 10-percent excise tax on tickets should be extended for the long term in its current form, or whether it should be replaced with another concept more attuned to the realities of the modern aviation industry.

The financing system imposed by the Federal Government to pay for the FAA must build on the strengths of the dynamic American aviation industry. I therefore strongly urge the administration to take the next 6 months to review the current funding needs of the FAA, and work to craft a permanent system for financing aviation that meets the interests of the American traveling public and of all the other participants in that system.

There are a number of other features in this bill that make a lot of sense, and that will be of significant benefit to our country, but rather than speak further on provisions of the bill that already command broad, bipartisan support, I would instead like to address a few issues that I believe need further review. Given the current floor situation, it is not possible to fully address all of these issues here on the Senate floor. That review will therefore necessarily have to take place in the upcoming Senate-House conference.

The House bill, for example, contains a provision that would tax nonphysical compensatory damage awards. Under the House language, victims of sex discrimination, race discrimination, and emotional distress would be required to pay taxes on any damages they receive resulting from a successful lawsuit in any of these areas of the law. Singling out this category of damages for differential tax treatment is wrong and discriminatory, and it would make it more difficult for people who suffer these harms both to access the court system and to achieve justice. I am therefore pleased and commend my colleagues in the Senate for excluding this provision, and I hope that the Senate language is adopted in conference.

The Research and Experimentation tax credit is another area that will need careful attention in conference. I have worked hard with my colleagues Senator BAUCUS and Senator HATCH to ensure that the R&E tax credit is extended in the bill now before this body, and I am pleased that the R&E tax credit will be extended effective July 1, 1996. However, I am deeply concerned by the fact that it was neither extended in the House version nor retroactively reinstated in the Finance Committee to cover the gap created by our failure to act. The last extension of the credit expired on June 30, 1995, and based on six prior extensions of the credit, businesses had every reason to expect that the credit would be extended without creating a gap where the credit is not available. If Congress is now to reverse that series of precedents, we might well create a chilling effect on business research and development investment. We need to make the R&E tax credit permanent, so that there will be no future gaps in the availability of the credit.

The section 29 tax credit for nonconventional fuels is yet another area that needs further consideration. This tax credit is good for our environment. For example, recovering and managing landfill gas such as methane has improved the quality of life around landfills, reduced smog, and alleviates global warming. With this tax credit, landfill gas has become a practical fuel for use in conventional electrical generating equipment. However, the extension of the credit will be less effective as it relates to coal unless the placed in service date is changed from January 1, 1998 to January 1, 1999, given the scope and complexity involved in converting coal into synthetic fuels.

While I believe these issues need to be addressed, I want to reiterate that the bill as it was reported from the Finance Committee is a good bill. Women, children, and working people will all benefit if this bill can be enacted, and it will help promote job creation and economic growth. I want to commend my colleagues on the Finance Committee, particularly Chairman ROTH and the ranking Democratic member, Senator MOYNIHAN, who have worked hard to produce a bipartisan bill that promotes growth and stability among small businesses.

I will speak separately on the minimum wage amendments that have been offered to this bill. At this time I only want to remind all of my Colleagues that this bill will not and cannot become law if this body passes a minimum wage provision that works against the interests of working Americans. I therefore urge all of my colleagues to vote for the minimum wage amendment being offered by the distinguished Senator from Massachusetts, Senator KENNEDY, and against any attempts to undermine this long overdue, and very modest increase in the minimum wage.

The Finance Committee worked in a bipartisan way to create a bill that commands broad support. It is a bill of which we can be proud, and of which the American people can be proud. If we continue the bipartisanship that brought the bill this year, if we continue to work together to put the interests of the American people first, we can ensure that this bill remains bipartisan, and that it becomes law. The alternative, to continue a politics of confrontation and gridlock, is not in the public interest, not in our national interest, and will result in creating another legislative failure out of what would otherwise be a significant legislative success. I strongly urge my colleagues not to let that happen. I urge my colleagues to cast votes based on the bipartisanship that has brought the bill this far. I urge the Senate to vote against gridlock and for the American people, so that this bill can become law.

Mrs. MURRAY. Mr. President, I rise today in strong support of the Kennedy amendment and as a cosponsor of the minimum wage increase.

I cannot sit idle as I hear of those struggling to live on today's minimum wage. I thought, like many of you, that the minimum wage earner was my

daughter or one of her friends: a teenager flipping burgers or taking food orders to earn some extra cash for new clothes or a movie.

That is the misperception though. The sad fact is that 73 percent of those earning between $4.25 and $5.14 an hour are over the age of 20. That represents 9 million adults who will attempt to live on $8,840 this year. One-third of these adults are the sole income-earners in their families. If these adults were supporting a family of three, they would fall $2,682 below the Federal poverty line.

I am immensely troubled with the fact that 58 percent of those struggling with a minimum wage are women; 5.2 million women, many of these single mothers, would benefit directly from this increase.

These single moms are trying. Trying to raise two kids on a below-poverty income. And how does Congress reward these single parents? By attacking Medicaid that would have paid for her son's asthma medicine. By cutting her child care support that allows her to work. By taking away funding for nutrition programs that pay for her kids to eat at school or day care. By eliminating her Head Start Program that gives her kids a chance at starting school ready to learn. By refusing to add 90 cents to her hourly wage—a wage that pays for heat, clothing, and food.

Aren't these the individuals and families we are trying to keep employed and off of Federal support? Instead, this Congress has targeted the low-income family through cut after cut and a resistance to move them above the poverty line.

This amendment does not eliminate jobs, it barely keeps people working, who otherwise would be completely reliant on public support. If we had only passed this amendment a year ago, it would have meant that the single mother would have earned an additional $2,000 today. To that low-income family, that would have meant more than 7 months of groceries, 4 months of rent, a full year of health care costs, or 9 months of utility bills.

I did not reach my decision to support the minimum wage easily. I have listened carefully to the concerns of small business owners from across my State, who have highlighted the implications of this increase. I don't want to see prices for the American consumer rise or jobs eliminated. But I don't think an increase to the minimum wage will end employment in small business, either.

It has now been over 5 years since the last minimum wage increase. We must remember that the value of the current minimum wage has fallen by nearly 50 cents since 1991 and is now 27 percent lower than it was in 1979. Now is the time to adjust that inequality and demonstrate a true commitment to our working families.

A slight increase in this wage provides those who work hard and play by the rules an increased opportunity and a chance to succeed. If any of my colleagues oppose the minimum wage, I urge them to live on $8,840 this year and then reconsider their vote.

Mrs. FEINSTEIN. Mr. President, I rise to support increasing the minimum wage from the current floor of $4.25 to $5.15 per hour, the 90-cent increase being phased-in in two stages over the next year.

This issue is about making ends meet. It's about people being able to pay the rent and put food on the table, and the bottom line is, the current minimum wage is simply not enough to live on.

A person working full time at minimum wage today does not even make enough money to meet the Federal poverty level. An American working a 40-hour week makes an annual salary of $8,640—nearly $300 below the Federal poverty level of $8,910. For a family of two, the poverty level is $11,920.

The minimum wage is supposed to be a safeguard against poverty-level wages, but for millions of Americans, the cost of living has outpaced any protection afforded by the minimum wage.

Many families in this country are just one paycheck away from disaster—whether it is an illness, the need to move, or simply the car breaking down—many people living paycheck to paycheck live in fear that they may not make it this month or the next. They live in dread of the next heat wave that could force them to choose between paying the extra-high electric bill or buying the kids a new pair of shoes.

We don't have a magic wand to fix their situation, but in my view we do have an obligation to maintain a minimum wage level that, at the very least, keeps pace with the cost of living.

Let me give you an example of what raising the minimum wage just 90 cents would mean to a family:

It means $1,800 more money every year; enough to pay 4 months of rent; enough to cover health care costs for a whole year; enough to pay 9 months of utility bills; and enough to buy 7 months worth of groceries.

Maintaining a minimum wage that makes sense is especially important for States like mine with a higher than average cost of living:

A loaf of bread in Los Angeles, at $1.34, is double that of the United States average of 75 cents.

A gallon of milk in the United States costs $1.41 on average, but in San Diego it costs $1.71.

A can of tuna that costs 69 cents on average costs 90 cents in San Diego.

In San Francisco, housing costs are 160 percent higher than the national average.

The cost of health care in Los Angeles is 37 percent higher than the national average.

The cost of transportation is 22 percent higher and there a fewer lower cost alternatives.

The minimum wage does not just affect teens who are working their first job. Seventy percent of Americans who receive the minimum wage are adults over 20 years old. Forty percent are the sole breadwinner in their family and more than three of every five are women, many of whom are single women supporting a family.

A decent wage has long been a hallmark of this country's promise. It means a livable wage for a fair day's work. It means providing for your family and staying off welfare. A decent minimum wage honors work. I hope my colleagues will join me in passing this amendment. It will mean a great deal to a lot of hard-working Americans.

Mr. HATFIELD. Mr. President, I agree that Congress should increase the minimum wage standard. I have voted for reasonable minimum wage increases in the past and will certainly vote for the reasonable increase of the minimum wage today.

As this Congress discusses welfare reform, it has been emphasized time and time again that those who can work should work. However, with the minimum wage today at $4.25 an hour, a person laboring 8 hours a day, 5 days a week, 52 weeks a year would gross only $8,840. The minimum wage is already very close to its lowest real value in over 40 years. In addition, paired with inflation, the minimum wage increase of 1989 has been virtually nullified. If the minimum wage in January 1978 had kept pace with the Consumer Price Index, for example, the current level would be $6.40 in 1996. If we expect those on welfare to work, we can at least ensure that a minimum wage is a living wage and by voting for an increase in the minimum wage today we will have taken steps to assure those who are working are justly compensated for their work.

The minimum wage, established in 1938 by the Fair Labor Standards Act has been raised 17 times, more recently in 1989 and 1991. I voted both for final passage and the conference report of the wage increases in 1989, which raised the minimum wage to $3.80, and 1991, which raised it to its current level. A minimum wage provides vital protection for those workers who are not union members or who have few if any skills and little bargaining power. With bipartisan support, Congress should raise the minimum wage to $5.15 per hour and I support that increase.

CLARIFICATION OF SECTION 4271 AVIATION EXCISE TAX

Mr. PRYOR. Mr. President, H.R. 3448 reinstates all airport and airway trust fund excise taxes, including the section 4271 tax on the transportation of property by air. In Revenue Ruling 80–53, the Internal Revenue Service clarified that this excise tax does not apply to charges paid by the U.S. Postal Service for accessorial ground services. Although the Internal Revenue Service has followed the same interpretation in an unpublished ruling involving a commercial carrier, there seems to be confusion about the application of section

4271 to commercial integrated carriers that provide accessorial ground services, in addition to air transportation.

In reinstating section 4271 excise tax, is it your view, Senator THOMPSON, that the statutory language of section 4271 is to be interpreted and applied to commercial carriers in accordance with the holding of Revenue Ruling 80–53—i.e., that amounts reasonably attributable to accessorial ground services of commercial carriers are not taxable under section 4271? If you agree with this statement, would you also agree that any uncertainty about the present or future application of section 4271 to commercial carriers should now be eliminated.

Mr. THOMPSON. I agree.

SBIC PARTICIPATING SECURITY PROGRAM

Mr. BOND. Mr. President, I ask unanimous consent that I be allowed to engage in a colloquy with the managers of the bill and the Senator from Arkansas [Mr. BUMPERS], regarding a correction that is needed for the Small Business Investment Company Participating Security Program.

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

Mr. BOND. This is an issue that arose so recently that it has proven impossible to address it in this small business tax bill, even though this would be the perfect forum for it because it is a tax issue having a serious impact on SBIC's. So we are hopeful that this issue can be taken care of in the conference committee on the small business tax bill.

Specifically, we are talking about a correction that is critical to the continuation of the newest form of SBIC: the participating securities SBIC. The need for and the language of the correction are supported by Treasury, SBA, and the SBIC industry.

As you know, Mr. President, SBIC's are small, privately managed and privately capitalized venture capital firms that are licensed by SBA to invest solely in U.S. small businesses. In return for their agreement to invest and to put 100 percent of their private capital at risk before Government funds are at risk, SBIC's are eligible to draw additional capital, or leverage, which is raised by the sale of SBA-guaranteed certificates. Leverage is repaid with interest, and a share of the profits in the case of participating securities SBIC's, as investments mature. At a time when strictly private venture capital funds are less and less inclined to invest in the $250,000 to $3 million range critical to small businesses and more and more interested in investing in foreign companies which compete with our U.S. small businesses, the need for the SBIC program is perhaps greater than ever.

The participating securities SBIC is a new form of SBIC financing that was created by Congress in 1992 to stimulate equity, vis-a-vis debt, investment in small U.S. businesses. With that legislation, Congress created not only a vehicle that has attracted substantial private capital for equity investment in small U.S. companies, but also created the mechanism by which the U.S. Treasury—and thereby the taxpayers—share directly in profits made by these SBIC's from their investments. To date, 35 participating securities SBIC's with $565 million in private capitalization operating in 17 States have been licensed by the SBA. By the close of fiscal year 1996, it is estimated that the Government will have received over $500,000 in profits over and above principal and interest factors from these new SBIC's. When one considers that nonprofit sharing SBIC's provided early financing to companies such as Apple Computer, Intel, Federal Express, and Cray Research, it is understandable why so many are excited about this new form of industry-led partnership with Government. It is a true partnership that will see U.S. taxpayers share both directly and indirectly in the profits associated with the creation of new jobs, technologies, and overall economic development by the small firms in which SBICs invest.

As referenced above, leverage funds for participating securities SBIC's are raised quarterly by sale of SBA-guaranteed certificates by a funding trust set up for this purpose. The certificates are 10-year obligations with interest payable quarterly. Because the participating securities issued by SBIC's to the trust in return for the leverage raised by the trust's certificate sales are equities which do not require the SBIC's to pay any amounts unless they have earnings, which they likely will not have while holding the stock of the small companies they invest in, the SBA's guarantee of the payment of both regular interest and principal is the critical element which supports the sale of the certificates through public capital markets. In recognition of SBA's guarantee as the primary reliance factor for investors, in all fundings to date, the Internal Revenue Service, through private letter rulings, has characterized the SBA-guaranteed certificates sold by the trust as obligations of the U.S. Government and not as those of the participating securities SBIC's being funded by the trust. These rulings have supported the six sales that have occurred thus far in the short history of the new program.

At this point, Mr. President, I wanted to ask my good friend from Arkansas, Senator BUMPERS, a question regarding the intent behind the enabling legislation for this program when it was passed in 1992. Because the Senator from Arkansas was chairman of the Small Business Committee at that time, he is probably better qualified than anyone in this body to opine on this matter. And my question is this: Was the intent of the enabling legislation for the participating securities program that the SBA-guaranteed certificates sold by the trust were to be obligations of the U.S. Government and not obligations of the participating securities SBIC's being funded by the trust?

Mr. BUMPERS. That was certainly my intent, and I believe the intent of the members of the Small Business Committees of both the House and Senate, when we acted on this legislation in 1992. I feel confident that this was the understanding of the other Members of this Chamber, as well. Frankly, to treat these certificates as debt instruments backed by the full faith and credit of the United States is the only way to make this program work. If they were not, the investors would demand a far higher return on their investment because the risk would be significantly higher. And the important aspect of that fact at present is that without this change, the cost of this program to the Federal Government will be substantially more. The consequences of failing to cure the definitional defect are severe. Either future leverage fundings would be impossible, thereby directly ending the program, or the uncertainty surrounding the nature of the certificates would dramatically increase their cost, thereby effectively ending the program in our view. Not only would a valuable program have been killed unnecessarily, but the Government might be liable for unfunded leverage commitments outstanding at this time, perhaps as much as $90 million, and, perhaps, losses of the $565 million in private capital that has been committed to the program to date in reliance on the availability of leverage capital at reasonable rates. For this to happen because of a lack of definitional clarity would be unfortunate indeed.

Mr. BOND. So this characterization of the SBA-guaranteed certificates sold to the public as U.S. Government debt is what permits the certificates to be sold to the broadest possible base at the lowest possible interest rates.

Mr. BUMPERS. That is correct. And currently the rate is the rate for 10-year Treasury bonds plus approximately 75 basis points.

Mr. ROTH. If I might ask a question at this point, it is my understanding that heretofore, the IRS has been willing to confirm that these certificates are debt obligations of the United States Government. Is that correct?

Mr. BOND. That is correct. The IRS has provided private letter rulings to that effect on six occasions in the past. Unfortunately, just last week, the IRS made a final decision that it is unwilling to give a permanent revenue ruling that would so characterize the certificates for all time. The IRS believes that the language of the statute is ambiguous with respect to congressional intent and fears that a ruling based on the ambiguous language might have negative consequences in non-SBIC areas. However, notwith-standing this unwillingness of IRS to issue a revenue ruling, the Department of Treasury is not opposed to a legislative correction to clear up the issue of congressional intent.

Mr. MOYNIHAN. If I could make one inquiry of the Senator from Missouri.

There is significant time sensitivity to this issue, is there not? What happens to the SBIC Participating Security Program if we do not resolve this issue soon?

Mr. BOND. It could be in trouble by the end of the year. Without clarifying language, it could well be impossible to sell any more certificates following the August 1996 quarterly offering. And let me add that the reason this issue was not raised earlier was that, up until last week, the SBA and IRS believed it could be worked out administratively. But at that time, the IRS determined it needed a legislative fix, and that is why we are here today. We have asked the Joint Committee on Taxation for a revenue request, which we hope will be ready post-haste.

Mr. MOYNIHAN. Well, this is certainly an issue that needs to be addressed.

Mr. ROTH. I thank the Senator from Missouri and the Senator from Arkansas for bringing this matter to our attention. Although the Participating Security Program is relatively new, it appears to have great potential for small business. Let us see what we can do to resolve this issue.

Mr. BOND. I thank the managers and my friend from Arkansas for taking the time to discuss this important issue.

DISALLOWANCE FOR BUSINESS MEALS

Mr. BAUCUS. Mr. President, I would like to engage the chairman of the Finance Committee in a colloquy regarding a provision in the Small Business Job Protection Act.

Section 1120 of the act provides an exception from the 50 percent disallowance for business meals for certain remote seafood processing facilities.

It is my understanding that this provision is intended to address a specific issue related to these seafood processing facilities, and is not intended to imply congressional intent on other exceptions to the 50 percent disallowance on business meals claimed by taxpayers.

Mr. ROTH. The Senator is correct.

Ms. MOSELEY-BRAUN. Mr. President, I rise today to talk about just a few of the compelling reasons that this Congress should support a real increase in the minimum wage.

By raising the minimum wage, this Congress can close the ever increasing gap between the working people of this country and the wealthy, help ensure that there is a market for all the goods and services the workers of this country produce, stop paying assistance and start collecting taxes, and honor the American tradition of rewarding hard work and perseverance.

The current minimum wage is not a living wage for the millions of American's who support themselves and their families on $4.25 an hour. Today, 10 million Americans earn the minimum wage—well below the poverty line for a family. In my State alone, over 10 percent of the work force earns the minimum wage—545,647 Illinoisans earn $4.25 an hour. This means that an Illinoisan, working 40 hours a week, 52 weeks a year, earns only $8,840.

The legislation we are considering today would increase the minimum wage by 90 cents over the next year. It has been almost 5 years since the minimum wage was last increased. During this time, the real value of the minimum wage has, of course, declined. While wages have stayed the same, prices have increased, as I'm sure anybody who has gone to the grocery store or the doctor's office lately can tell you. It is no wonder then, that the working people of this country are faced with a declining standard of living.

As I have pointed out to the Senate before, in the 1980's, 80 percent of Americans did not improve their standard of living. While the average wage increased 67 percent, the average price of a home increased by 100 percent, the average price of a car increased 125 percent, and the cost of a year in college increased by 130 percent. The minimum wage increased by only 23 percent. In fact, a recent study stated that the decline in the value of the minimum wage since 1979 accounted for between a 20- and 30-percent increase in wage inequality in this country.

It is important to understand that workers earning the minimum wage are not just young people working at their first job—although many young people contribute to their family's income.

The majority of the people earning the minimum wage—two-thirds—are adults. Many of these are parents raising families on under $9,000 a year. The poverty rate for a family of four is $15,600.

Close to 60 percent of those earning minimum wage are women. These are women who are taking responsibility for themselves and their children. They go to work every single day, and still the minimum wage does not provide them with a living wage on which to raise their families. It is a travesty that a mother or father working full time—40 hours a week, 52 weeks a year—cannot support a family or get out of poverty, no matter how hard they work.

A 90-cent increase in the minimum wage would provide a full-time worker earning the minimum wage with $1,800 a year in additional income. That money could pay more than 7 months of groceries, rent or mortgage for 4 months, a full year of health care, or 9 months of utility bills for a family living on the minimum wage. The money would make a world of difference to that family. That money would also be part of the economy.

A family that can pay for rent, groceries, or health care is putting money back into the economy. That family is buying goods and services produced by other workers. That family is also earning taxable income and reducing the need for public assistance. An increase in the minimum wage helps people to contribute to, rather than drain, the Nation's economy.

It is not only the lowest paid workers who will benefit from this increase. All those who earn a dollar or two above the minimum wage should see their income rise. This will increase the pool of consumers, increase taxable earnings, and improve the lives of countless American families.

Paying a living wage does not mean that jobs will be lost. Last year, a group of respected economists, including three Nobel Prize winners, concluded that an increase in the minimum wage to $5.15 an hour will have positive effects on the labor market, workers, and the economy. Any job loss is negligible compared to the benefits an increase in the minimum wage would produce.

Some argue that small businesses should be exempt from the minimum wage increase. We should remember that the minimum wage bill is attached to the Small Business Jobs Protection Act of 1996, a bill that provides $6.5 billion in tax benefits for small businesses over 10 years.

Even more to the point, however, is the fact that small businesses which right now pay a living wage to their employees are at a competitive disadvantage to those which do not. By setting a floor, a minimum wage, we will level the field for business. If there is a consistent basic wage among businesses, no worker's livelihood will become the basis for competitive advantage. We should help small businesses to pay a living wage, not allow them to be penalized if they do so.

Workers are our greatest resource. The American worker is more lasting and more valuable than all our coal and oil. The American worker made this country great. We should recognize the contributions of our workers and reward those who work long and hard to earn a living. We must be especially careful to ensure that those workers caring for children are able to do so. Parents working full time to support their families must be able to support their families.

I urge my colleagues to vote against the Bond amendment. That amendment strips the wage increase of any real meaning by providing exceptions and loopholes that will leave millions of workers without the minimum wage increase they deserve.

I urge my colleagues to vote for the Kennedy amendment. This amendment covers more of America's minimum wage workers with less delay. This amendment responds to the wishes of the American people and provides a real increase in the minimum wage.

Our country is founded on the belief that hard work is the foundation of success—this is the American dream. Congress should encourage, not discourage, effort and perseverance. A minimum wage should provide a living wage for those who are working day in and day out to provide for themselves and their families. Family values and

the American dream are ideas we like to talk about, but today we can actually make them more real for millions of Americans.

Mr. MACK. Mr. President, I rise today in support of S. 295, the Teamwork for Employees and Management Act.

This bill, which I am proud to cosponsor, amends the National Labor Relations Board Act to permit teams of employees in nonunion settings to work with management to address workplace issues of mutual interest. Under current law, only union representatives can represent workers in communication with management.

In an article in this week's edition of the AFL–CIO News, union members were urged to call their Senators and tell them that ''the TEAM Act is an underhanded effort to prevent workers from forming unions.'' This is simply false. The TEAM Act merely gives nonunion workers an effective voice for change in the workplace. In essence, the bill extends the same rights to nonunion workers which union members already possess. How can that be such a bad idea?

Employee participation on labor/management teams gives them the opportunity to make significant and valuable contributions to their companies. Employee involvement teams are about respect and fairness for all workers. Today's worker's have much to offer about the work they perform, and employers have learned to listen to them.

Even President Clinton agreed with this concept. In his 1996 State of the Union Message he said: ''When companies and workers work as a team, they do better—and so does America.'' I could not agree more.

Mr. President, there are many difficult issues facing America's work force. One area which should be neither challenging nor stressful is the relationship between labor and management. I believe that Congress must offer policies which improve the quality of work life and reduce the tension between managers and workers. The TEAM Act is such a proposal. This bill intends to break down the communication barriers between employers and employees, and as a result, establish more cooperative labor/management relationships in American companies.

Mr. President, I urge my colleagues' support of this legislation. American laws should be designed to stimulate and encourage cooperation and teamwork in the work force, rather than suppress such activities. The time has come to pass the TEAM Act.

Mr. DOMENICI. Mr. President, millions of Americans worry about their ability to retire, pay the bills and not be a burden to their children. Some worry because their employer is unable to provide them with a pension. Others worry about whether their existing pensions will be there for them when they retire.

This bill is a blessing for all of these workers. It will make it easier for people to get pensions and will protect pensions of those who already have them.

Thirty-six million Americans work for small businesses that can't afford to provide pensions to their employees. These 36 million people will benefit from the simple pension plan created in this legislation. This plan allows small businesses tax-favored treatment when they establish pension plans for their workers, and it eliminates most of the redtape associated with creating a pension plan.

Two million Americans who work for tax-exempt organizations will, for the first time, be eligible to sign up for 401(k) savings plans.

In addition to pension reforms, the bill includes provisions that help small businesses and their workers. They include creation of the work opportunity credit designed to encourage the hiring of hard-to-place workers, and an increase in expensing for small business to help the Nation's job creators grow and create more jobs. The work opportunity tax credit replaces the targeted jobs tax credit which I helped author. The reforms update that legislation.

The bill changes the S corporation laws to make it easier for families to maintain their enterprises and the bill extends a popular tax provision that allows employers to provide their workers with educational assistance on a tax-favored basis.

This bill also includes an expansion of IRA provisions for homemakers so that they can contribute $2,000 to an IRA.

The bill and managers' amendment also extends the R&D tax credit through December 31, 1997.

Out of the six areas of tax law, the most complex for small business owners are the independent contractor rules, depreciation, alternative minimum tax, inventory accounting, pension rules, and the home office deduction.

This bill addresses the independent contractor rules and pension rules. This is a very good start.

The tax title contains revenue offsets to pay for the relief granted to small businesses and pensions. The bill reduces the deficit by $100 million in 1996 and by $1.1 billion in 1997.

A few of the revenue offsets are from the vetoed Balanced Budget Act: reform of section 936 possessions tax credit, repeal of the 50-percent exclusion for financial institution loans, elimination of the interest allocation exception for certain nonfinancial corporations, revision of the expatriation tax rules.

The bill also reinstates the airport and airway trust fund taxes through April 15, 1997.

This bill contains many tax provisions passed by Congress last year in the Balanced Budget Act which was vetoed by President Clinton.

Congress believes that it is worth sending the small business tax relief to the President again in this minimum wage bill.

Despite the current tax burden, small business is the fastest growing, most vibrant sector of our economy. The bill provides much needed relief so that businesses can create even more new jobs.

I hope that next Congress we will enact comprehensive tax reform. Instead of limited expensing, there could be expensing and no depreciation calculation. We would eliminate the alternative minimum tax and get rid of inventory accounting.

If we enacted the USA tax plan introduced by Senator NUNN and me the Tax Code would get much simpler.

There are 5 million employers in the United States today. Some 60 percent employ 4 employees or fewer and 94 percent employ fewer than 50 employees.

Tax regulations and compliance burden ranks highest among small business people's problems and concerns.

A recent NFIB tax survey found that 79 percent of those responding said we should substantially change the Federal Tax Code as it affects both business and individuals.

Current code smothers small business.

Arthur Hall of the Tax Foundation found that small business owners—small corporations with assets less than $1 million—pay a minimum of $724 in compliance costs for every $100 paid in income taxes. This is a total of $28.6 billion in compliance costs for these small business owners, compared to $3.9 billion paid in income tax.

Additionally, small firms bear a compliance burden at least 24 times greater than big business.

There is growing recognition by politicians, economists, and all citizens alike of a disturbing fact—the burden created by Federal income tax and other Federal regulations falls predominantly and disproportionately on the very people who we rely upon to create jobs—small business owners.

Endless paperwork associated with tax regulations takes more and more time, allowing less and less time to run their businesses.

The alternative minimum tax and depreciation calculations mean endless hours of work and high accountants fees, often for little bottom line tax benefit.

Additionally, 53 percent said payroll taxes are less fair or much less fair than business income taxes.

One-half of small business owners start their business with less than $20,000, most of which is from personal savings or family savings. The unlimited savings allowance in the USA tax will make it much easier for entrepreneurs to get started. This means more new businesses and more new jobs.

I am pleased to support the tax title of this bill; however, we need comprehensive reform.

PROVIDING EQUAL TAX TREATMENT TO SOFTWARE EXPORTS

Mr. LEAHY. Mr. President, I am disappointed that the tax package in the

Small Business Job Protection Act, H.R. 3448, does not include any provisions to correct the foreign sales corporation tax to provide equal treatment to computer software exports.

I believe the managers of the bill, Senator MOYNIHAN and Senator ROTH, have done a fine job on the tax provisions in this legislation, except for this one issue. I want to thank Senator MOYNIHAN for his support and I will continue to work with him and other Senators to correct this tax discrimination because it has hampered the competitiveness of our software industry for far too long.

In 1971, before the birth of the software industry, Congress created tax incentives for U.S. companies to bolster exports. In an increasingly competitive global economy, Congress realized that U.S. businesses must export to succeed. Since 1987, however, the Treasury Department has interpreted the law to exclude most U.S. software exporters from receiving these benefits.

Correcting this inequity will protect U.S. software development jobs and encourage economic growth through increased software exports. The United States is currently the world leader in software development, creating more than 500,000 high-wage, high-skill jobs in this country. Our tax policy should be encouraging the creation of more of these jobs, not hindering the ability of our software companies to compete in the global economy.

Correcting this problem does not grant special treatment to the software industry. It would merely restore equal treatment under existing law. Fixing this anomaly in our tax law makes economic and common sense. I urge my colleagues to provide equal tax treatment to software exports as soon as possible.

Ms. MIKULSKI. Mr. President, I am voting to raise the minimum wage. This increase in the minimum wage is long overdue. While opponents have tried to kill this increase, inflation has killed the value of the current wage.

The bill before us today has two major components. First of all, it raises the minimum wage from $4.25 an hour to $5.15 an hour. This is a major step in improving paycheck security for America's workers.

Second, the bill contains a number of tax provisions. Many of these provisions are designed to benefit small business, and to address concerns that small business might be hurt by the wage increase the bill provides.

One tax provision of special importance to me is the language that expands the availability of spousal IRAs. Along with Senator KAY BAILEY HUTCHISON, I am the author of the Homemaker IRA Bill. Sixty of our colleagues have joined in cosponsoring our bill to allow homemakers to get a full IRA deduction. So we are delighted that our bill, which is so important in providing retirement security for American families, has been included in this legislation.

If this Congress fails to raise the minimum wage, we will be letting down millions of hard working men and women. We will be letting down the 130,000 Maryland workers who will benefit from an increase.

The last time we acted to raise the minimum wage was 1989. When we add in what inflation has done to that increase in the last 7 years, the minimum wage is at its lowest level since 1955—40 years. How many in this Chamber would be satisfied with 1955 wages?

When I say I am for a minimum wage increase I want to make clear that I will not vote for the Republican amendment. The Republican amendment is an attempt to have it both ways. Tell the voters you voted for an increase, but don't tell them that the millions of working men and women who need the increase will never get it. Under the Republican amendment, two thirds of all workplaces—and 10.5 million employees—would be denied the minimum wage increase.

The Republican amendment delays the increase for another half year. It effectively cuts out all waiters and waitresses, and others who depend on tips. This is a particular concern to women. Women represent some 80 percent of tipped employees.

The Republican amendment denies an increase to every worker, regardless of age, for the first 6 months on any new job. The Republican amendment will not result in an increase in the minimum wage but it will result in an increase in the public cynicisms about Washington.

The Democratic amendment is straightforward, and it will raise the minimum wage. Under our proposal the minimum wage will increase from $4.25 an hour to $5.15 an hour by the second year. This is a modest proposal that will not kill jobs, but will help America's families.

Mr. President, some will argue that the minimum wage doesn't really help families or adult workers, but that is not what the facts tell us. The facts are that over 60 percent of workers receiving the minimum wage are adults. And over one-third of minimum wage earners are the only wage earners in their families.

Too many workers are losing ground. Too many people are working longer and working harder, but their checks are getting smaller. These people don't work on Wall Street and they don't work in this Chamber, but they do work in every corner of the United States and every place in between. They live their lives trying to meet their day to day needs. In a country where voters wonder if Washington is interested in improving their lives, raising the minimum wage is one small signal we can send that says we do care.

Mr. President, I also want to mention my support for the small business tax package that will become a part of this legislation if it is passed. I am pleased that we have a bipartisan agreement on a tax package that will provide some needed tax changes.

Some have denounced a minimum wage increase as being antibusiness. These same people fail to mention the nearly $11 billion in tax cuts that are a part of this legislation. Extension of the research, education, and targeted tax credits are all important tax deductions that I have long supported. I believe the continuation of these credits will help businesses as well as help the country.

I am also very pleased that this tax package includes an expansion of the IRA for spouses. I want to take this opportunity to commend Senator HUTCHISON, with whom I introduced the bill early last year to provide homemaker IRA's. Senator HUTCHISON has been such an able and staunch advocate for our legislation, and I am pleased that it is included in the bill before us. By passing this we are finally recognizing the value of the labor of all the spouses who work at home.

Mr. President lets pass a minimum wage increase. One that is real and one that is needed.

Mrs. FRAHM. Mr. President, few would disagree that small businesses are the backbone of the American economy. From the mom-and-pop general store, to the diner on Main Street, small businesses play an integral role in keeping our economy moving. In fact, these enterprises create half of all of the new jobs created in this country.

The greatest obstacle facing small business today is the Federal Government itself. Ronald Reagan had it clear in his mind when he said what the test of an economic program should be: ''Government has an important role in helping develop a country's economic foundation. But the critical test is whether the Government is genuinely working to liberate individuals by creating incentives to work, save, invest and succeed.''

Sweeping tax reform is the only way to truly unleash America's potential and free small business from the burden of Government while encouraging savings, investment and real prosperity. However, until we have someone in the White House who puts the interests of small businesses and the American people before politics, this type of complete tax reform seems impossible.

In the meantime, passing the Small Business Job Protection Act provides immediate and meaningful relief for small businesses in Kansas and the rest of the Nation. The specific provisions of this bill will enable small businesses to increase capital investments, enhance job and overall economic growth, and provide retirement savings options for their employees. This is the proper role of Government.

People are worried about the economy and more specifically their financial futures. When I talk to Kansans, one thing is abundantly clear—people are fearful of their post-employment futures. They wonder if they will be able to afford to retire despite all of

their years of hard work. For many the only option is to work until they no longer can. The American dream of a secure retirement becomes more and more of a dream and less of a reality every day.

Currently, complex regulations and the resulting high costs keep small businesses from offering retirement plans to their employees. Only 19 percent of workers in businesses with fewer than 25 employees had employer provided pensions made available to them, and only 14 percent participated. A major contributing factor to this dismal statistic is the sky-high cost per participant of establishing and maintaining these pensions.

This bill will fix this situation, making pensions accessible to more Americans, and helping to secure their financial futures. A lifetime of hard work should be accompanied by the earned reward of a secure retirement.

To me, Kansas common sense dictates that our policy toward small business should support creation and growth, In fact, during the 1980's, they accounted for an increase of more than 20 million jobs alone—20 million. It is vital that we look to protect America's small enterprises. We cannot afford to send hard-working Americans to the unemployment lines.

However, I am very concerned that a mandatory increase in the minimum wage, will excessively raise labor costs, forcing employers to either close down or dramatically decrease the number of people that they employ.

We must remember that protecting small business protects small business employees. A minimum wage increase without substantial protection for small business will destroy hundreds of thousands of entry-level and low-wage jobs. Many Americans rely on these jobs for their very survival.

The solution here is not the quick fix of simply paying individuals a bit more per hour—the prudent, long-range solution is providing these individuals with the training they need to land higher paying jobs. A minimum wage increase will substantially decrease the funds that small employers will be able to spend on the training of entry-level employees to prepare them for higher paying jobs.

Although I oppose any effort to increase the Federal minimum wage, I certainly support Senator BOND's small business exemption provisions. Since small enterprises are the hardest hit by a minimum wage increase, they are in the greatest need of relief to continue to be competitive.

If we are going to pass legislation that makes such important strides in protecting small business, and more importantly, the people who depend on them—we cannot take a giant step backward by simply creating new obstacles for these hard-working entrepreneurs to overcome.

Again, raising the minimum wage is not the feel-good cure-all. However, tax relief and a minimum exemption for small business are steps in the right direction. Any minimum wage increase must be coupled with such provisions if we are to keep hard-working Americans from a trip to the unemployment office.

It is my top priority to help bring some commonsense conservatism to the U.S. Senate. I urge my colleagues to do the same. By supporting a small business protection bill with a minimum wage increase, we take one step forward and two giant steps back. We owe it to the American people to keep their dreams of a brighter future alive.

SECTION 936

Mr. MOYNIHAN. Mr. President, last year, the Senate voted to terminate section 936 and provide for a 10-year grandfather period, with various restrictions, for existing companies doing business in Puerto Rico. Many of us were uncomfortable leaving Puerto Rico without any economic incentives to replace section 936 following its termination. I want to commend and thank the distinguished chairman of the Committee on Finance for his leadership in reporting out, as part of the Small Business Job Protection Act of 1996, language that begins to address this serious problem.

The provision we are considering today is a step toward encouraging job creation for the 4 million American citizens in Puerto Rico by putting in place a long-term wage credit for companies currently doing business in Puerto Rico. This provision also moves toward the program that we established in 1993. The chairman is to be commended for recognizing the importance of this modification, and I urge the Senate to insist on this modification when we go to conference.

While this bill provides security for the almost 150,000 employees of companies currently doing business in Puerto Rico, it does not address the issue of new investment and new jobs under a wage credit program, and leaves in question the adequacy of the incentive at the end of 10 years.

Mr. ROTH. My distinguished colleague from New York makes some good points, and his views reflect his long standing interest in the economic stability of Puerto Rico. Let me note that I view section 936 as an overgenerous tax benefit. However, I recognize that our provision for a continuing wage credit provides significant economic stability for Puerto Rico and enhances job security for these many thousands of employees of U.S. firms. I included the continuing wage credit in the Finance Committee bill as a response to the concerns raised by Senator MOYNIHAN about Puerto Rico.

Mr. GRASSLEY. Mr. President, I rise today in strong support of the business tax provisions in this legislation. In particular, I want to speak about a tax item that I had an opportunity to help include in the legislation. People from my State of Iowa, and other farm States, have been actively seeking tax relief. This tax bill is a giant step in the right direction.

In particular, young farmers and all consumers will benefit from the inclusion of legislation that we call the Aggie Bond Improvement Act, S. 1674. Young farmers will benefit from the improved access to the farming profession. Consumers will benefit from the addition of a new generation of farmers into the profession that guarantees the flow of cheap food into our Nation's supermarkets.

Aggie bonds are tax exempt bonds used for first time farmers. I introduced the Aggie Bond Improvement Act with Senators PRESSLER, BAUCUS, and MOSELEY-BRAUN in order to improve the popular first time farmer programs administered by various state authorities. These authorities issue tax exempt bonds to finance loans for first time farmers. With the help of the authorities, these usually younger farmers must secure a participating private lender. This legislation protects the Government's interests because this is a Government and private sector partnership where the private sector lender assumes all of the risk.

However, problems exist in the current program, and this legislation corrects some of those problems. The biggest problem is that the current first time farmer program does not allow a young farmer to purchase the family farm. Because the success of our Nation's farming industry has followed from passing our farmland to succeeding generations, the current program discriminates against families and thereby discourages success.

Under current law, a son who is farming with his father, and meets certain eligibility tests, may qualify to use aggie bond financing to buy farmland from a stranger, but not from his father, or even his grandfather. Ironically, the father or grandfather could also use the aggie bond program to sell farmland to any qualified beginning farmers, as long as that farmer is not related to him. Thus, fathers or grandfathers and sons can use aggie bond financing, but not if the transaction involves the sale of the family farm from one generation to the next.

This imposes an unfair burden to family farms when compared to nonfarm family businesses. In nonfarm family businesses, such as manufacturing or retail businesses, intergenerational sales can use all of the tax and purchase benefits that are available in sales between unrelated parties. Thus, when purchasing the family business, children of nonfarm business persons compete fairly with the open market place.

However, children of farm families do not have a level playing field when compared to unrelated buyers. Instead, they have a huge financial burden on them. This is easily explained by the fact that they have to pay a higher rate of interest to get loans to buy the same farmland that unrelated persons can buy.

I will add that there is an aging generation of farmers on the land that

would like to retire, but cannot because the next generation cannot afford the capital to buy the land. In my State of Iowa, and I think in most agricultural States, the average age of our farmers is in their upper fifties. In 5 to 6 years we will have 25 percent of our farmers wanting to retire. This legislation to improve the State aggie bond programs simply makes the necessary transactions possible. Though it is only a small provision in the greater bill, the aggie bond legislation in this Small Business Job Protection Act is extremely important to farm States and consumers alike. Therefore, the tax legislation in the Small Business Job Protection Act earns my resounding support.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD after my remarks a letter that I received from a resident of Knoxville, IA. Her name is Leslie Miller, and I think that she does an outstanding job of quantifying and personalizing the importance of this aggie bond legislation.

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

IOWA STATE SAVINGS BANK,
Knoxville, IA, July 8, 1996.

Hon. CHARLES GRASSLEY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY: I am writing to express support for H3448 because it contains provisions originally included in your bill, S1674. The most important of these provisions would expand the use of tax-exempt aggie bonds to include financing the sale of farmland between related parties. These important changes are needed to ease the financial burdens involved with shifting family farming operations from one generation to the next.

Iowa State Savings Bank has frequently used aggie bond financing (through Iowa's Beginning Farmer Program) to lower interest costs to beginning farmers. We have found this program successful in helping young farmers acquire the base they need to survive in farming. We have been frustrated that this program has not been available to finance transactions between related parties, particularly sales between parents and children.

Under current law, a son who is farming with his father, and meets certain eligibility tests, may qualify to use aggie bond financing to buy farmland from a stranger, but not from his father (or even his grandfather). Ironically, the father (or grandfather) could also use the aggie bond program to sell farmland to any qualified beginner farmer, as long as that farmer is not related to him. Thus, fathers (or grandfathers) and sons can use aggie bond financing, but not if the transaction involves the sale of the family farm from one generation to the next.

This inequity imposes an unfair burden to family farm businesses when compared to family businesses that are non-farm in nature. In non-farm family businesses, such as manufacturing or retail businesses, intergenerational sales can use all of the tax and purchase benefits that are available in sales between non-related parties. Thus, children of non-farm businesspersons compete fairly with the open marketplace, when purchasing the family business.

However, children of farm families to do not have a ''level playing field'' when compared to non-related buyers. Instead, they have a huge financial burden placed on them that can be best explained by the following examples. These examples use average land values from the 1995 Iowa Land Value Survey, released in December, 1995 by Iowa State University. The values are based on estimates as of November 1, 1995, as compiled by Mike Duffy, an extension economist in Farm Management at ISU.

Example 1: Assume that a farmer wants to sell his 270 acre, average-sized, Marion County farm. He prices the farm at $1200 per acre (the county average price) which totals $324,000. He is willing to take 20% down payment and will finance the sale with a 25-year contract. If he sells this farm using the aggie bond program, his interest is tax-exempt, so he could charge about 6.5% interest. If he sells the farm to his son, the interest cannot be tax-exempt, so he will have to charge 9.03% interest (the higher interest is needed for the father to receive the same amount of after-tax money that he would get under the aggie bond program).

Under these conditions, the non-related buyer would pay the father a total of $531,426 over the life of the contract. On the other hand, the son would wind up paying $661,583 over the life of the contract. This means the son would pay $130,157 more to buy the farm, than a non-related person would pay. The difference is an extra $5206 per year (or an extra $19.28/acre per year), which places the son at a huge financial disadvantage.

(Note: If the father charges his son the same 6.5% interest rate, then he must sell the farm to his son for $1386/acre to get the same after-tax dollars from his 25-year contract.)

Example 2: Assume the same size farm, but use the Iowa state average of $1,455/acre. This brings the purchase price to $392,850. Also assume a 20% down payment and a 25-year contract. Under these conditions, a non-related buyer, paying 6.5% interest will pay $644,353 over the life of the contract. A son, paying a taxable 9.03% interest, will pay $802,169 over the life of the contract. Thus, the son would pay $157,816 more than a non-related person would pay for the same farm. This is a difference of $6,313, per year (or $23.38/acre per year). Again, the extra dollars make it difficult for the son to survive in farming.

We believe that the changes proposed in H3448 will affect 15 to 18% of our borrowers. This number can only increase as other children recognize that it may be possible for them to buy their family farm. H3448 can also be of immediate benefit to farmers in poor health, who are reluctant to sell their farm to strangers, but might sell it to a child willing to start farming.

We ask that you share the information in this letter with those who would not support the changes proposed in H3448. Thank you, once again, for your diligent work on behalf of beginning farmers and farm families everywhere.

Sincerely,

LESLIE S. MILLER,
Vice President.

CONTRIBUTIONS IN AID OF CONSTRUCTION

Mr. GRASSLEY. Mr. President, this small business tax bill includes legislation that helps home buyers.

The provision is called contributions in aid of construction. It repeals the gross-up tax imposed on families building homes since the 1986 Tax Act.

It will save families and small businesses up to $2,000 off the price of a new home or building. The gross-up tax is one where under current law, regulated public utilities must include in their taxable income contributions from customers, or potential customers. These utility services include water and sewer systems.

Customers routinely must finance the cost to the utility of extending the necessary capital improvements to the family home. Therefore, State utility commissions require that homes hoping to get utility services contribute to the company both the cost for the capital improvements necessary to extend the service, and the amount of tax that the utility will have to recognize on the receipt of the funds or assets needed for those improvements.

This gross-up tax can increase the cost of the contribution in aid of construction by 70 percent.

The cost to families of the present law encourages the proliferation of small, uneconomical, and environmentally unsafe water and sewer systems.

This legislation is paid for by the water utility industry. Contributions in aid of construction are so important that the water utility industry has volunteered to change the depreciable lives of its property to finance the law change.

Over a 10-year period, this legislation in the chairman's mark raises an extra $200 million more than is necessary to pay for the legislation.

The contributions in aid of construction legislation is important tax relief for families, and I believe that it is an outstanding addition to this legislation.

CHURCH PENSIONS AND PENSION SIMPLIFICATION

Mr. President, I am pleased that this manager's amendment contains, in the pension simplification portion, provisions which will help clarify the treatment of church pension plans. The amendment would allow combined pension plan coverage for self-employed clergy. It would allow pension plans established prior to the enactment of ERISA, which is the case for many of the church plans, to use the new definition of highly compensated employees. It authorizes, but does not require, the Treasury to design safe harbors from the nondiscrimination rules for church plans. And it allows for the payroll deduction of pension contributions for clergy on foreign missions. The final bill will also retain a change in the tax treatment of parsonage allowances which will benefit many ministers.

Mr. President, we included last year in the Finance Committee's portions of the Balanced Budget Act legislation which Senator PRYOR and I introduced early in this Congress designed to deal with many of the problems the church plans were having with the rules pertaining to highly compensated employees and to nondiscrimination. Ultimately, those provisions were dropped from the legislation on the grounds that they did not meet the requirements of the Byrd rule. If the legislation we are considering today is enacted, Mr. President, we will have gone a long way toward taking care of the

most serious of the problems faced by the church plans. Of course, much will depend on the Treasury Department's willingness to develop rules for nondiscrimination with which the church plans can live. I am optimistic that can be done, Mr. President. I believe that, as the Treasury Department reviews the situation faced by the church plans because of the way many of the interested denominations are organized, Treasury staff will conclude that it is practically impossible for many of the church plans to do the kind of data collection and analysis necessary to demonstrate compliance with the nondiscrimination rules. This is certainly not to say that these plans discriminate; but it is to say that Treasury should help work out a method to insure that such plans can more easily demonstrate that they do not.

I will conclude with just a word about the main pension simplification provisions in the bill, Mr. President. And that is to say that these simplification represent a major step forward. Their enactment should ultimately result in more pension plans being created, particularly by smaller businesses. Since it is that segment of the business community that has the greatest difficulty in offering pensions to their employees, enactment of these provisions should result in a major increase in pension coverage. Ultimately, that means more savings and more income for retirees. These simplification provisions have been on our congressional agenda for several years. It is high time they were enacted.

Mr. BYRD. Mr. President, the Senate is today considering a legislative proposal to increase the federal minimum wage, which currently stands at $4.25 per hour. Few actions taken by this body can effectuate more immediate and discernable effects on our nation's low-wage earners than increasing the minimum wage. Many of these minimum wage earners are struggling to make ends meet in today's paradoxical economy, where continued economic growth has been accompanied by rising economic inequality among our nation's citizens. Indeed, we are entering a time where President Kennedy's famous saying, ''A rising tide lifts all the boats,'' might be made more appropriate if it included an exception for those diminutive vessels that may be washed away and sunk by the indiscriminate waves of economic growth. Consider a report issued by the U.S. Census Bureau on June 20, 1996, that revealed that income inequality, based on the most commonly used index measure, increased 22.4 percent from 1968 to 1994, despite considerable economic growth in that same period. For example, in 1994, a household with an income in the 95th percentile earned $109,821, while a household with an income in the 20th percentile earned $13,426. The former household earned 8.2 times as much as the latter. In 1968, however, a household with an income at the 95th percentile earned just six times that of a household at the 20th percentile. Clearly, we have seen growing economic disparity in our nation, and there is no indication of this perilous trend reversing itself. If we are to combat this nefarious problem, we must first identify its causes. The aforementioned Census Report presents several reasons for the growing income disparity. Specifically, the report states:

> The wage distribution has become considerably more unequal with more highly skilled, trained, and educated workers at the top experiencing real wage gains and those at the bottom real wage losses. One factor is the shift in employment from those goods-producing industries that have disproportionately provided high-wage opportunities for low-skilled workers, towards services that disproportionately employ college graduates, and towards low-wage sectors such as retail trade. . . . Also cited as factors putting downward pressure on the wages of less-educated workers are intensifying global competition and immigration, the decline of the proportion of workers belonging to unions, *the decline in the real value of the minimum wage*, the increasing need for computer skills, and the increasing use of temporary workers.

While, as the report states, there are numerous contributors to rising economic inequality, the declining value of the minimum wage must be addressed if we are to seriously combat this insidious trend.

Mr. President, as passed by the House of Representatives, H.R. 3448 would increase the statutory minimum wage from its current level of $4.25 per hour to $4.75 per hour this year and $5.15 per hour next year. In inflation adjusted terms, the proposal would restore the minimum wage to roughly the same level it had after the most recent 1991 increase went into effect. If no action were taken this year with respect to the minimum wage, it would continue approaching a 40-year low in real buying power by 1997. Included in the House-passed minimum wage increase is an exemption for employees under 20 years of age who are in their first 90 days of service to an employer—the so-called ''Opportunity'' Wage. A similar, albeit temporary, provision was included in the last minimum wage increase in 1989, and, despite the fact that the Department of Labor found that few employers actually used this ''training'' wage, it is being reestablished on a permanent level in the bill before us today. While I question the logic of rehashing this failed experiment, I nevertheless intend to support the bill as it currently stands. It will restore the minimum wage to a reasonable level by making work pay for a substantial number of our lowest-wage earners.

Mr. President, it should be noted that the value of the minimum wage in real, or inflation adjusted, dollars peaked in 1968 and has since fallen gradually to less than 60-percent of that value. According to a report by the Congressional Research Service, the value of the minimum wage today would have to be $7.13 per hour to be worth as much as it was in 1968. Mr. President, the proposal before us today would only increase the minimum wage by 90 cents per hour over two years—hardly enough to bring it close to its 1968 inflation-adjusted level. Yet, we are told by many that this minimum wage increase is unnecessary and excessive. The Republican leadership has cleverly crafted an amendment to the House-passed minimum wage increase that would effectively deny even this modest minimum wage increase to a substantial number of deserving workers. The Republican amendment to H.R. 3448 would not only delay the increase until next year, but it would also extend the ''Opportunity'' wage to 180 days of service for all employees, not just to those under the age of 20. In addition, the Republican amendment would exempt all businesses with less than $500,000 in annual sales from the minimum wage increase. The Department of Labor estimates that this provision alone would deny the minimum wage increase to 10.5 million workers. In my own state, West Virginia, this small business exemption would exclude nearly 67,000 workers from coverage under the new minimum wage increase. Clearly, this amendment represents an attempt to eviscerate the minimum wage increase entirely. If we are to approve a real increase in the minimum wage, we must defeat this tendentious amendment.

Mr. President, allow me to reiterate that we are engaged in a fundamental debate about fairness. We are considering a proposal to increase the federal minimum wage from $4.25 per hour by just 90 cents to $5.15 per hour. In my own state of West Virginia, this increase in the minimum wage would affect nearly 100,000 workers—about 23 percent of West Virginia's estimated 425,000 employed wage and salary workers. According to the U.S. Department of Labor, in 1995, the percentage of West Virginians paid wages at or below the $4.25 minimum wage was 10.2 percent, which was the highest in the nation and nearly twice the national average of 5.3 percent. The pending minimum wage increase would give a raise of up to $1,800 a year to these workers that could be used to pay for seven months of groceries, nine months of utility bills, or four months of housing costs. In addition, many of these low-wage earners are women who represent their families sole source of income. According to the 1990 Census, more than 80 percent of single parent families in West Virginia were headed by women. In short, the pending minimum wage increase would help lift many low-income families above the poverty line—not with work-deterring welfare checks, but with higher wages for hours worked.

Mr. President, in conclusion, I would like to reemphasize my support for the modest minimum wage increase that is before us today. It is a proposal that will affect the lives of many of our most needy citizens. It is not akin to

handing out welfare checks; the minimum wage only applies to those who work. Moreover, in the context of welfare reform, it is essential that we create incentives for current recipients to work and earn a decent living. The current minimum wage earner who works 40 hours a week earns just $170 a week, or about $680 a month. Every Member of this body earns nearly that much in one day. So, I hope that all Senators will view the minimum wage increase in the context of fairness, and not partisanship. In addition, I ask that all Senators consider the growing income inequality that I have already discussed. We are slowly becoming a nation of haves and have-nots—we are losing those in the middle. This trend does not augur well for the future of our Nation. Aristotle admonished mankind more than 2000 years ago about how important it is to maintain a healthy, sizable middle class, or what he described as the ''middle people.'' He writes in ''Politics'':

> It is the middle citizens in a state who are the most secure: they neither covet, like the poor, the possessions of others, nor do others covet theirs as the poor covet those of the rich. . . . It is clear . . . that the best partnership in a state is the one which operates through the middle people, and also that those states in which the middle element is large, and stronger if possible that the other two altogether, or at any rate stronger than either of them alone, have every chance of having a well-run constitution.

We must remember Aristotle's insightful words. While the minimum wage will not instantly lift any poor, low-wage earner to the middle class, it will provide a more accessible ladder for those who, although they may lack certain skills, have the energy and determination to fulfill their own American dream. Let us give them that chance.

Mr. President, I yield the floor.

Mr. HARKIN. Today we get the opportunity to assure that 12 million American workers are provided with a much needed and much deserved raise. The value of the minimum wage is 50 cents less than it was when it was last increased and it's headed for a 40-year low. At last we have the chance to increase the minimum wage so that American families aren't working harder for less.

Some say that working Americans don't deserve a raise. I say look at the facts. In my home State of Iowa our minimum wage is 40 cents above the national law. The increase has meant more money in the pockets of Iowa workers and more money spent in our local economy. Jobs are up, unemployment is down, and our economy is stronger.

Look around the Nation. Two-thirds of minimum wage workers are adults. Nearly 60 percent are women. More than one-third are the sole breadwinners.

Now think about this. Last year, the CEO's in America's top companies made an average of over $4.3 million—about $12,000 a day. Meanwhile someone working for minimum wage made $8,500 a year. That means that a top CEO made more in 1 day than a minimum wage worker earns in well over a year. That's not right and it's not good for America.

The one thing spoiling this vote today is an amendment offered by the majority. They delayed this vote for as long as they could and they're still trying to stack the deck against working Americans. The Bond amendment is even more extreme than the Goodling amendment that was rejected as too extreme by House Republicans. Through a host of exemptions, denials, and delays, the Republican minimum wage proposal is designed to provide the minimum possible minimum wage increase to the minimum number of people.

First, the Bond amendment delays the increase until January 1, 1997—that means that for another 6 months, minimum wage workers will go without a raise, as they already have for more than 5 years. This works out to about $500 in pay that employees would receive over the next 6 months, money that could be spent on crucial family needs like health care, food, and housing.

Next, they want to create a subminimum wage for all workers. Their proposal would allow employers to pay all new employees a subminimum wage of $4.25 an hour, for 6 months. That means that no matter how old you are and how much experience you have, if you start a new job, your value to your employer is equal to the most inexperienced employee. That's far worse than the opportunity wage passed by the House that affected young workers age 20 and under for 90 days.

And last, the Bond amendment would exempt 10.5 million workers—two-thirds of all companies—from a minimum wage coverage by providing for an across-the-board exemption for small businesses with less than $500,000 annual sales. This is unnecessary. The economy has added more than 10 million jobs since the last minimum wage increase and small business has led the way.

The Bond amendment is a blatant attempt to derail the opportunity to give America a raise. The National Retail Association admitted as much in one of their action alerts to members. Referring to the Bond amendment the alert advised members that, ''It is our last chance and best hope for stopping the minimum wage increase this year.''

The majority is trying to two-step with the working Americans. They say for every step forward, working Americans have to take two steps back. Well, we don't do that dance and I urge my colleagues to reject the Bond amendment.

The bottom line: America deserves a raise. Profits and productivity are up. There is room to give workers a wage they deserve without harming economic growth. The rest of the economy shouldn't be doing better than the people who make it run.

So I urge my colleagues to support a raise in the minimum wage. It is the right thing to do and it is overdue.

Mr. President, I also want to make brief remarks on the tax provisions in the bill.

I am a strong supporter of the pension improvements: increasing the ability of small businesses to establish pension plans with far less paperwork. Too many smaller businesses do not have pension plans. And, this legislation will help in that area. We need to do more to increase the availability of pensions and to secure further protections against inappropriate actions that reduce pension benefits.

The higher expensing limits allowing more capital purchases to be deducted will be helpful to many small businesses.

The extension and modifications in the targeted jobs tax credit, now called the work opportunity tax credit and the extension of the exclusion of employer paid higher education costs are an excellent step toward increasing the ability of Americans to improve their education and job skills. We need to help people get their first leg up the ladder of success and we need to improve the skills of workers. The measure also extends the R&D tax credit which I have long supported.

I am also pleased that the Senate once again passed provisions to block billionaires from gaining tax advantages from renouncing their citizenship. This is long overdue reform.

So, while I believe certain provisions can and should be improved in this bill, overall it is a victory for American workers and will provide needed help to small businesses. I hope conferees are named promptly and a strong bill is quickly sent to the President in a form he will sign.

MINIMUM WAGE AND NURSING HOMES

Mr. HATCH. Mr. President, I would like to ask the bill's proponents about one serious ramification of a minimum wage increase, that is, the effect this increase will have on the Medicaid Program. Almost one-half of Medicaid dollars are spent in long-term care, primarily for the elderly. It stands to reason that an increase in the minimum wage will affect all health care providers, including those who are providing care under Medicaid.

Nursing homes are large employers of minimum wage workers. They employ significant numbers of nurse aids, orderlies, food service, and housekeeping staff who all contribute to the care of nursing home patients. Labor costs account for about 60 percent of all nursing home costs.

However, unlike other businesses, the nursing home industry is unable to reduce its staff. The level of care that is required both by internal quality standards and by Federal regulations means that nursing home staff, particularly those individuals who are directly providing patient care, cannot be reduced.

In short, nursing homes are caught in a catch–22. They cannot adjust the size

or configuration of their staffs; so they suffer a significant increase in labor costs. Yet, unless the minimum wage increase is taken into account in determining Medicaid reimbursement rates, nursing homes cannot recover any of the increase.

So, unlike any other business, which can either reduce its number of workers or pass the increased costs on to consumers, nursing homes are simply left to absorb it. I am very concerned that this will have a serious adverse impact on our nursing homes both in the short- and long-run. In our country, we need to be able to depend on these facilities to provide quality care for our frail elderly and infirm population.

Does the Senator from Massachusetts agree with me that the Fair Labor Standards Act should be a factor in determining nursing home reimbursements under Medicaid?

Mr. KENNEDY. Yes, I do. Major nursing home reform passed Congress in 1987 as part of the Omnibus Budget Reconciliation Act [OBRA], Public Law 100–203. This act required significant changes in staffing and training requirements, quality of care, patient services, and enforcement of new nursing home standards. Because Congress was concerned about the ability of the nursing home industry to absorb costs of this magnitude, special language was included to ensure that the Medicaid reimbursement systems of the States were altered to cover these costs. Just as care was taken to ensure that the Medicaid reimbursement system adequately accommodated the OBRA 1987 cost increases, I believe it is fair to do so in conjunction with a new minimum wage law. The increase in the minimum wage should be taken into account in plans submitted by States to HCFA. The Federal nursing home quality standards have been enormously successful in improving the quality of care and quality of life of our nursing home residents and we do not want to do anything to diminish the successes we are achieving as a result of those reforms.

We are all well aware that States now are setting Medicaid rates, not on the basis of costs incurred by facilities in providing long-term care services, but rather on State budgetary constraints. A recent survey of nursing homes nationwide indicates that in half the States, a majority of facilities do not receive Medicaid rates that cover the actual cost of providing care to their Medicaid patients. This situation will only worsen if States are not held accountable for recognizing increased labor costs that facilities will incur under this new minimum wage law.

Mr. HATCH. I think we agree that any increases in the minimum wage should be a factor in Medicaid reimbursements. I thank my colleague for this clarification.

Mr. HARKIN. Mr. President, I wanted to lend my support to the colloquy between my colleagues Senators HATCH and KENNEDY relative to nursing homes and the minimum wage. In their colloquy my colleagues note that nursing homes, many of which, particularly in rural areas like my State of Iowa, are funded primarily through the Medicare and Medicaid programs. Nursing homes provide vital services to our elderly and disabled citizens and they employ many minimum wage workers who provide direct care to these residents. Therefore, this minimum wage increase, which will help these valued workers and help increase their retention, will have an impact on nursing homes costs. And that should be reflected in Medicare and Medicaid payments. It is essential that state Medicaid payments be reasonable and adequate to enable well-run facilities to meet and exceed the quality standards set by law.

I thank my colleagues for raising this important issue and I appreciate the opportunity to express my agreement with their statements.

Mr. BINGAMAN. Mr. President, finally, the issue of raising the minimum wage has come to the floor for a vote. It has been disturbing during these many months that the Republican leadership has employed extraordinary legislative tactics, some quite complicated and perplexing even for our parliamentarians, to keep the Members of this Chamber from voting on this issue.

In the State of New Mexico, which I represent, more than 10 percent of the work force, approximately 80,000 workers, would receive a wage increase if this legislation is passed. Let me put in stark perspective what we are talking about.

Minimum wage levels today are approaching their lowest levels in history. Despite having raised the minimum wage 17 times since 1938, each time with bipartisan support, the minimum wage will hit its lowest level in real dollars in January 1997. Two-thirds of those earning the minimum wage today—and working full time—are adults, and 40 percent of those earning minimum wage are the sole breadwinners for their families. For working hard, trying to stay in the mainstream of those wanting to get ahead in this economy, these workers make just $8,840 a year. And usually, they don't have health coverage. They don't have gain-sharing. They aren't covered by pension benefits. And their training resources are usually very limited, if not non-existent.

This is a subject that we should have been allowed to vote on long ago. Americans need to know that we support those who want to work to get ahead. A family of four earning less than $16,039 is classified as one in poverty. And yet, we have a substantial portion of America's work force earning $8,840 a year—well under the poverty level. Furthermore, I think that we must recognize that women represent 60 percent of the work force earning minimum wage, and that occupations with the highest percentage of minimum wage workers are women. This is not acceptable.

Earlier this year, I issued a report entitled ''Scrambling To Pay the Bills: Building Allies for America's Working Families.'' In that report, I endorsed an increase in the minimum wage—which I strongly support today. However, we tried to do some other things in that report as well. One of these was to address the huge disparity between what the CEO of a firm made in salary compared to the lowest-paid employee of that respective firm. Numerous objections came from the business community that we were attempting to set up a ratio that did not reflect a reasonable ratio between the highest and lowest paid workers for a company. When we wrote this, I mistakenly assumed that the lowest paid employee was probably earning somewhere about $15,000 a year—and 50 times that figure would allow the CEO to earn $750,000 a year, in order to receive some tax advantages we were proposing. That same week, the Washington Post reported that CEO's of America's top 100 firms earned an average salary over $4 million.

I was wrong on two fronts. The lowest paid are earning less than $9,000 a year and the highest paid salaries are somewhere between 400 and 500 times this figure. I don't think that this ratio reflects a fair balance between those who are working hard to help companies and communities prosper and those who are profiting higher up in the salary chain.

We must defeat an effort here today sponsored by Senator Bond to exempt certain small businesses from paying a higher minimum wage to their employees. Of the more than 10 million workers who deserve a raise, the Bond amendment exempts nearly 5 million—and would have undermined the entire rationale for the minimum wage, which establishes a floor above which all employees can expect a fair and decent return for the work they expend on an employer's behalf. The Bond amendment would encourage employers to favor particular groups of workers over others, particularly younger workers over older ones. This is not acceptable and not just.

The Bond amendment also creates a 6 month waiting period before the increased minimum wage kicks in. This is nothing more than a way for many employers with high turnover to keep from ever paying the minimum wage to those who work in high turnover industries. It is not uncommon for restaurants to experience more than 200-percent staff turnover in 1 year.

Workers can't support families—and can hardly support themselves—on $4.25 an hour. In the 17 previous times that the minimum wage has been raised, there have been naysayers who have predicted dire consequences. The economic trauma that had been predicted by these negative commentators

has never occurred, and it is wrong not to include minimum wage workers in the gains of an economy that is producing sky-high corporate salaries, historic corporate profits, and all time high stock market averages.

Mr. President, we can't ignore hard working Americans working on the lower end of the economic ladder any longer. I strongly support this raise in the minimum wage, and I urge others to do the same.

Mr. SHELBY. Mr. President, I want to express my support for provisions in the Small Business Job Protection Act of 1996, that will help make higher education a reality for thousands of young people in America.

It is no secret that many families in our Nation are struggling to finance their childrens' education. College tuition costs have skyrocketed in the past decade increasing 95 percent at private institutions and 82 percent at public institutions. Some families will spend more than $100,000 just to send one child to college.

Mr. President, the financial burdens facing parents with college-age children is overwhelming. The tendency of some in this Chamber would be to create a new Federal program to try to deal with this issue. Yet, many States, including Alabama, have shown that is not necessary by developing their own prepaid tuition funds. These funds allow parents to make a tax-free investment, years in advance of their child's enrollment in college, with the guarantee that the child's full tuition will be paid for by the State when he or she enrolls in college. These tuition plans provide parents some help in dealing with the exorbitant inflation in tuition costs.

The Clinton administration, until very recently, was planning on taxing these State funds and the parents who invest in these plans. After months of encouragement, we have been successful in getting the administration to temporarily back off from taxing these funds and the working class families who invest in them. At the same time the President was cheering the benefits of lowering the cost of education through his new education tax credit, his administration was preparing to slap a new tax on families.

Mr. President, this bill ensures that these funds will not be taxed, and it provides that parents will not have to pay taxes on the money they invest in these funds. These are two very positive steps, but I believe we should go further. Congress should ensure that students are not forced to pay taxes on their education when they enroll in college. Currently, the student is taxed on the difference between the value of the education services they receive from the State and the amount his or her parent paid for the prepaid tuition contract.

Mr. President, the correct way to view these prepaid tuition arrangements should be as a prepayment of services, not an investment scheme to make money. When parents enter into these contracts with the States, they are trying to buy their child's future education at an affordable price. Neither they nor their children are trying to get rich. Therefore, I don't believe the Federal Government should saddle students with taxes on their college expenses. Students today are already facing a lifetime of enormous taxes to pay off the debts of previous generations. Now, the IRS would have these same people pay taxes on a service their parents purchased for them long before they enrolled in college.

Unfortunately, because of the minimum wage issue, we were unable to offer amendments to this legislation. Had we been permitted, I would have offered an amendment to ensure that students would not be taxed on their college expenses. I am a cosponsor of Senator MCCONNELL's bill which would accomplish that, and I applaud him for his efforts in this area. I will continue to do everything I possibly can to find ways to make education in America more affordable. The bill before us today is a significant step in that direction, and I look forward to working with Chairman ROTH and others in the future to provide even more favorable tax treatment for families.

Mr. BRYAN. Mr. President, the difficulty in bringing the issues we are voting on today before the Senate has resulted in an unfortunate parliamentary situation, where the bill is not open to amendments. While I generally support the bill, and plan to vote in favor of the bill today, I would have preferred the bill to be open to amendment, both to add other desirable provisions, particularly to the small business tax relief title, and to offer amendments to strike provisions which I believe are inappropriate.

In particular, there is one provision which I am strongly opposed to: the provision which imposes income tax withholding on winnings from keno and bingo. Under current law, income taxes are withheld only for winnings where the odds are over 300 to 1, but bingo and keno are exempt. The bill being considered by the Senate today extends this withholding to bingo and keno winnings over $5,000, regardless of the odds of the wager.

The change in withholding included in the bill is not included for any serious policy or enforcement reason. In fact, there is good reason not to require withholding on gambling winnings. For example, gambling winnings can be offset by gambling losses—drastically reducing the actual tax due from the winnings. Since withholding is intended to approximate actual tax liability, requiring withholding for a tax liability that does not exist runs counter to sound tax policy.

Of course, requiring withholding on bingo and keno winnings was not included in this bill for tax policy or enforcement reasons—it was solely in order to raise revenue for other tax provisions of the bill. While I am supportive of these tax cuts, I object to offsetting them with a provision that will negatively impact only one segment of the economy, the gaming-entertainment industry.

Tax withholding on bingo and keno winnings is unsound for policy reasons and unfair to an important industry in my State. This provision, and similar provisions proposed or adopted in recent years, continue to show a disregard and lack of knowledge concerning the gaming/entertainment industry in Congress and at the IRS. The revenue raised by this provision is relatively small—$69 million over 10 years—but could cause significant harm in a legitimate industry.

I will vote for this bill in spite of my opposition to increasing withholding on gambling winnings, but I urge the conference committee to drop this misguided attempt to raise revenue.

Mr. HATCH. Mr. President, I support the tax provisions included in H.R. 3448, the bill now before us. These provisions are important, not only to small businesses, but to almost every American business. And, I am one who believes, Mr. President, that simplifying and lessening the tax burden faced by American entrepreneurs—both small and large—will have substantial benefits for workers as well. Unfortunately, the detriments of the minimum wage increase, which is also included in this bill, outweigh the benefits of the tax provisions in this bill.

Mr. President, H.R. 3448 has much to recommend it. For example, I am pleased to see that the bill increases the amount of newly purchased equipment that a small business can expense from the current $17,500 to $25,000. This change will make it easier for these enterprises to afford to invest in new equipment. This will help not only small businesses but also those larger companies that supply equipment to them and will thus have a multiplier effect on the economy. Moreover, increasing the expensing allowance will decrease the recordkeeping burden these companies face.

This bill also goes a long way toward reforming the tax treatment of S corporations. My colleague and friend from Arkansas, Senator PRYOR, and I have long been advocating the need for S corporation reform. While this bill does not contain all of the reform measures that we introduced in our S. 758, the S Corporation Reform Act, it certainly is a very good step in the right direction.

Many of my colleagues may not realize it, Mr. President, but there are nearly 2 million S corporations in the United States, most of them small businesses. These reform provisions are designed to ease their tax compliance burden and to increase these companies' access to capital.

Another very good set of provisions included in this bill is that dealing with pension simplification. All of us

are aware, I think, of the special problems that small businesses face in providing pension benefits to their employees. It is no accident that fewer than 20 percent of the employees of small businesses are covered by a pension plan. The problem is twofold, Mr. President.

First, many small businesses are afraid to commit to providing a certain percentage of their payroll every year to funding a pension or profit sharing plan. It's not that these businesses are stingy with their employees. Rather, many of them are operating on such thin cash flow margins that they are hesitant to add to their overhead and possibly overcommit their already strained resources.

The second problem is probably even more widespread among small enterprises. This problem is that setting up and administering a pension plan is a very costly undertaking. Let's face it, Mr. President. Most small businesses in America are already struggling to keep up with the myriad rules and regulations that are piled on them by Federal, State, and local governments. The last thing they need is to have to learn and comply with the mind-numbing regulations governing pension plans contained in the Internal Revenue Code. Even hardened tax veterans admit that these rules are almost beyond comprehension for them. How is a small business man or woman supposed to master them? The alternative is paying big dollars for a specialist to administer the plan, again stretching the small firm's tight resources.

This bill deals with both of these problems by providing for a new type of pension plan that allows small employers to sponsor pension plans with low employer contributions. It gives the business the flexibility to contribute a higher percentage of employee compensation in good years or to contribute as low as 1 percent in difficult years. At the same time, however, employees are given the benefits of tax favored treatment on both their own contributions and those of the employer.

Moreover, Mr. President, H.R. 3448 simplifies the onerous compliance burden that now accompanies pension plan sponsorship. These rules are designed to take away the worst of the compliance headaches that are now keeping many businesses from offering pension plans to their employees. All in all, the pension reform provisions in this bill should go a long way toward increasing the retirement security of the millions of Americans who work for small businesses.

Let me mention one other very important section of the tax bill now before the Senate. This bill temporarily extends a number of tax provisions that Congress has allowed to expire. These include the research and experimentation credit, the work opportunity tax credit, the orphan drug tax credit, and the tax credit for producing fuel from a nonconventional source. It is important to note, Mr. President, that these so-called extenders are important for small, medium, and large businesses alike. There are thousands of businesses in my home State of Utah, and millions across the Nation, that will find the extension of these provisions important in helping them to grow and create jobs in the future.

But, as much as I like the tax title of this bill, Mr. President, I have to say that it is far from perfect. Let me just briefly outline what I see as its greatest deficiencies.

As my colleagues know, the only reason we are voting on a tax bill today is because of the increase in the minimum wage that is also included in H.R. 3448. I believe strongly that mandatory increases in labor costs create any number of problems for both small businesses and workers. I will discuss those in a moment.

The House of Representatives recognized the added burden placed on small businesses in particular and attached the small business tax provisions to the minimum wage bill in order to help alleviate some of the harsh results that the minimum wage increase will have on small enterprises.

One harsh result that will come from a 21-percent increase in the minimum wage is the loss of jobs. According to CBO, it is estimated that increasing the minimum wage will mean that as many as 500,000 jobs will either be lost or not created.

Yet, as beneficial as these tax provisions are, and they will have an indirect benefit to job creation, they are not designed to be big job generators. I would have liked to see provisions that would have at least offset the job losses that will result from the minimum wage hike.

The best thing we could include in a bill designed to overcome the disemployment effect of the minimum wage increase is a cut in the capital gains tax rate. Such a change would unleash a significant portion of the estimated $8 trillion in unrealized capital gains that is out there in our economy. If we could free up only 10 percent of this mountain of capital—or $800 billion—the job creation that would result would overshadow the loss of jobs that will result from increasing the minimum wage.

Don't get me wrong, Mr. President. The tax measures in this bill are positive provisions that will assist small businesses. They don't, however, have the job creation power that a capital gains tax cut has. So, if the Senate were really serious about helping workers or those who cannot find a job, we would concentrate our efforts on improving opportunities for those who may be unemployed or underemployed. The best way to do this is by expanding the availability of capital needed to create these opportunities.

I am also concerned about the way that this bill extends the expired tax provisions. Ideally, Congress should find a way to make these provisions permanent. The continual expiration and reinstatement of these provisions leads to taxpayer skepticism about our tax laws and greatly reduces the effectiveness of the provisions. This is particularly true of the research and experimentation credit. The bill before us today does include an extension of the research credit, but only on a prospective basis from July 1, 1996. Therefore, the bill leaves a year-long gap, from July 1, 1995 to June 30, 1996, in which the research credit is not in effect.

The research credit has been a part of the Internal Revenue Code since 1981, but only as a temporary measure. It has been allowed to expire seven times, counting the most recent expiration on June 30, 1995. Each of the times that the bill expired before this last expiration, Congress has extended the bill on a retroactive basis. Thus, even though Congress often did not act until after the research credit had expired, it has always, until this bill, gone back and made the credit effective from the date of expiration.

The seamless extension of the research credit is important because the businesses that have counted on the credit as an incentive to increase their research activities will now find that the credit is not available for an entire year. Many of these companies based their research plans on the availability of the credit. Why shouldn't they count on it being there? After all, Congress had never left a gap in its extensions of the credit before. The bill before us, however, breaks this faith and sets a very poor precedent. This gap, along with the temporary nature of the credit, will greatly reduce the effectiveness of this credit, Mr. President. I hope that this problem can be corrected in conference.

Finally, Mr. President, let me briefly mention another flaw of this bill. In the name of closing a perceived corporate tax loophole, H.R. 3448 dramatically reduces the benefits available to companies doing business in Puerto Rico under section 936 of the Internal Revenue Code. We could debate the merits and perceived abuses of section 936 all day. I simply want to point out to my colleagues that the focus of attention on this issue has been far too concentrated on a few companies that have reportedly reaped rich benefits from the section 936 credit, and far too little on the people of Puerto Rico, who have been able to pull themselves out of dire economic circumstances over the past few decades, largely as a result of the credit.

I believe that Congress is being shortsighted in gutting section 936, Mr. President. Without the jobs that section 936 companies bring to the island of Puerto Rico, many U.S. citizens will find themselves in economic difficulties. Congress will likely spend more money in increased transfer payments through higher welfare benefits and unemployment benefits than will be saved through the tax changes included in this bill. At a minimum, we should

ensure that Puerto Rico has a permanent incentive to attract new jobs to the commonwealth.

So, Mr. President, I am disappointed in the overall small business tax package. I favor its provisions, but I believe they should be stronger. The potential positive impact could be so much greater.

My views on increasing the minimum wage are well known. I have long believed that raising the statutory minimum wage merely raises the rungs on the ladder of opportunity.

I am also well aware of the opinion polls that show that a substantial majority of the American people believe that a raise in the minimum wage is a good idea.

Many believe that this is a quick, painless way to help the disadvantaged in our society; many believe that a minimum wage hike is costless; and many believe that it has no adverse impact. I can only suggest that the people have not been given all the facts about this proposal.

I wonder, for example, if the people realize that even the most optimistic estimate puts job loss at 100,000 entry level jobs. The Congressional Budget Office estimates the loss of 100,000 to 500,000 jobs given a 21 percent increase in the minimum wage. Other estimates are higher.

While there are always dissenters, there are few public policy issues on which there is such an overwhelming consensus among economists. Three-quarters of the members of the American Economic Association agree that minimum wage hikes have a disemployment effect that stifles employment opportunities for low-skilled workers.

This position is summed up by William Baumol and Alan Blinder, who was a Clinton appointee to the Federal Reserve Board: ''The primary consequence of the minimum wage law is not an increase in the incomes of the least skilled workers, but a restriction on their employment opportunities.''

The long and the short of it is simply that you cannot mandate an increase in the price of entry level or unskilled labor—which is exactly what the statutory minimum wage is—without reducing the demand for that labor.

It is true that some workers will reap the benefit of the increase. But, by mandating wage increases we are going to destroy job opportunities for many others.

Let me put it another way: Some workers will get a $36 a week raise. Potentially half a million workers won't have a job at all. I hope my colleagues do not break their arms patting themselves on the back for such benevolence.

Now, let us look at the demographics of who would be helped and who would be hurt by the loss of job opportunities.

There are more adult minimum wage earners in families earning $30,000 per year than in families earning less than $10,000 per year. Forty percent of all minimum wage earners are teenagers and young adults living at home. They are not heads of household.

A majority of minimum wage earners live in families in which they are not the principal breadwinner. Only about a quarter of all minimum wage earners are heads of household.

The fact is that there is no way to target the benefit—to the extent there is one—only to those who are heads of households or working poor.

The reality is that those who are not poor are more likely to get raises and those whose skills do not justify the higher wage will be out of jobs. Study after study has concluded that raising the minimum wage is an ineffective means of helping those who are disadvantaged.

Kevin Lang, professor of economics at Boston University, has stated that ''Low-skilled adults in states that raised their minimum wage were often crowded out of the job market by teens and students.''

Peter Brandon, of the Institute for Research on Poverty at the University of Wisconsin has found that ''welfare mothers in states that raised their minimum wage remained on public assistance 44 percent longer than their peers in states where the minimum wage remained unchanged.''

If there was ever an issue for which the benefits were swamped by the downsides, this is it. And, those who we intend to help are exactly those who are most likely to be hurt.

Yes, Mr. President, raising the minimum wage sounds like an easy way to help those who are working but still struggling to find their way out of poverty. It is no wonder that, lacking the facts, the American people would support this.

Frankly, if I thought it would do what my friend Senator KENNEDY says it will do, I would support it myself. If I believed we could improve the standard of living for all Americans by governmental fiat, I would be joining the Senator from Massachusetts on the other side of the aisle. Who would not want to stamp out poverty with the stroke of a pen?

But, things just do not work that way. It is not that easy.

The idea that there is no adverse impact from a mandatory increase in the cost of hiring workers is delusional.

And, what's worse, this adverse impact is for nothing.

This legislation will not be the economic salvation of minimum wage earners. Even for a minimum wage worker lucky enough to benefit from it, it will provide a $36 a week raise.

It will take about $7.10 an hour to produce an income equal to the poverty level for a family of four. But, proponents will not suggest raising the wage to that level. Why? Because they know the consequences.

This proposal to increase the minimum wage, like the emperor who has no clothes, is spurious. And, someone has to tell the truth. The American people deserve to know all the facts about this minimum wage hike.

We have a lot of work to do yet during this Congress. It is disappointing that my colleagues on the other side of the aisle have become Johnny one-notes with respect to the minimum wage and have offered it to virtually every bill we have debated since mid-March.

Is this the only idea they have to offer? It would certainly seem so.

Let us get down to business on some proposals that will help working men and women—like tax cuts, a balanced budget, regulatory reform. Let us get the economy moving. Let us create new jobs and new opportunities, not jeopardize the ones we have.

Mr. FEINGOLD. Mr. President, I rise today in support of the Democratic proposal to increase the minimum wage.

First, let me address the issue of process.

It has been clear for months that there is a majority in the Senate who have been prepared to vote for the modest $.90 increase over 2 years which has been proposed. This increase would raise the current level set in 1989 at $4.25 to $5.15, in two 45 cent steps.

Indeed, the majority of our colleagues have already voted to support an increase of this size.

Yet, rather than allow this issue to be fully debated and voted upon, enormous time and energy has been spent on devising ploys to either block such a vote or to load it down with anti-labor poison pills.

Mr. President, I'm relieved that this game playing is finally going to stop. I'm pleased that we will finally have the opportunity to have a clean, up or down vote on raising the minimum wage.

We ought to raise the minimum wage because it is the fair, just, and necessary thing to do.

It has been 5 years since the minimum wage was last adjusted.

The minimum wage has been adjusted seven times since the minimum wage law was first enacted in 1938.

Each time, opponents predicted economic disaster would follow any increase. None of those dire predictions came true. The American economy has continued to grow.

Since the minimum wage was enacted, every President except Ronald Reagan signed an increase in the minimum wage into law.

Adjusting the minimum wage at regular intervals is a routine task that should never have been turned into a pitched partisan battle.

Indeed, Mr. President, it is remarkable that this fierce debate should be taking place in the 104th Congress. This Congress has been awash with statements about how we should have work, not welfare. Those are views that I, too, share. We should be promoting work, not welfare.

But how can we encourage people to leave the welfare rolls and join the

work force when we fail to set a minimum hourly wage that provides a decent income?

An American worker, working full-time, 40 hours a week, 52 weeks a year, at the current minimum wage would earn less than $9,000 per year.

The current poverty level for a family of four is $15,600. Forty percent of those earning the minimum wage today are the sole breadwinners for their families.

The 90 cent increase being proposed would make a real difference in the lives of these families, and encourage them to stay in the work force.

It is estimated, Mr. President, that 12 million American workers—200,000 in my own State of Wisconsin—would directly benefit from the increase being proposed in the Democratic amendment.

The vast majority—more than two-thirds—are adult workers, not teenagers, and they are working to help support their families.

Over 101 leading economists, including three recipients of the Nobel Prize in Economics, have refuted the argument that increasing the minimum wage would hurt the economy. Instead, they have concluded that the modest increase being proposed would have a positive, not a negative, impact upon the labor force and the economy in general.

Apparently, Mr. President, many of my colleagues on the other side of the aisle remain unconvinced by the opinions of Nobel laureates. Although the amendment they are advocating purports to raise the minimum wage, it is difficult to imagine a worker who would actually have the opportunity to benefit from it, because it is so loaded down with exceptions.

Actually, their amendment seems designed to assure that the status quo is maintained. It exempts all employees of small businesses with gross annual revenues under $500,000—the very businesses most likely to pay their workers the least. These businesses employ 10½ million people and comprise two-thirds of all American workplaces. Not all employees who work in such settings earn the minimum wage, but those who do deserve the same modest raise that others who work for more prosperous businesses receive, once this bill is passed and signed by the President.

Another outrageous provision in the Republican amendment would create a permanent second class, subminimum wage. Employers would be allowed to pay new workers, regardless of age or experience, $4.25 an hour for their first 6 months on the job. Although my colleagues on the other side of the aisle refer to this lower rate of pay as a ''opportunity wage,'' there is no suggestion anywhere in their amendment that workers will receive training in exchange for this discriminatory treatment.

This provision would be particularly harmful for migrant and seasonal agricultural workers, who rarely work for the same employer for 6 month periods of time. Up to 8,000 migrant workers are employed in my State of Wisconsin alone.

Finally, adding insult to injury, the Republican amendment wouldn't even fully take effect for another year and a half.

Mr. President, the workers who benefit from an increase in the minimum wage are likely to do something important with the extra dollars they receive: Spend them on goods and services for their families. That's good for everyone, as these dollars are plowed back into the economy, creating jobs and expanding economic growth.

Mr. President, there seems to be a lack of understanding in the minds of some about the connection between the economic well-being of the average American worker and economic prosperity for the Nation.

Some see the down-sizing of large companies and layoffs of thousands of workers across America as an unfortunate, but necessary part of increasing profits for Wall Street investors and attracting the investments of the multinational conglomerates.

They fail to appreciate the fact, however, that if American workers don't have the money to purchase the goods and services, eventually both Wall Street and corporate America will feel the pain as well.

The modest increase in the minimum wage being proposed is not a panacea for the troubling trends in the relationship between American workers and their employers. There is a growing feeling that the link between corporate responsibility and the workforce has been frayed almost beyond recognition and that American workers are coming to be regarded as disposable goods.

In his campaign for the Republican Presidential nomination, Pat Buchanan tapped into this sense of abandonment of the average American worker by corporate America and by international trade agreements like GATT and NAFTA that appear to put the profits of large corporations ahead of the jobs of American laborers.

Mr. President, let me stress that this growing separation between employees and their employers is not limited to corporate America or to minimum wage job holders.

It is not limited to the worker flipping hamburgers at the local fast-food shop.

It reaches into all levels of the work force, from the mid-level corporate executive to the filing room clerk, who are surviving the mergers and downsizing but wonder each night if they will be next.

Not a week goes by without a story in some major paper documenting the anxieties of members of the work force, when companies like IBM and AT&T begin casting off thousands of long time employees. Many companies, still burdened by the debt acquisition of the leveraged buy-out frenzy of the 1980's see themselves as having limited options and are forced, by economic pressures, to close factories, spinoff divisions, and lay off employees at all levels.

Yet, some of the new employment trends cannot be attributed solely to economic pressures.

I recently heard of a nonprofit agency, funded almost entirely by State and Federal grants which employed some 35 individuals. Yet only five of those people were regular, full-time employees. The rest were so-called contract workers—employees in every sense of the word, but forced to work without health care, without pension coverage, without sick leave, without vacation or other benefits.

The Federal Government itself also engages in this practice, hiring people as temporary employees—again without the protections that regular workers receive.

The vocabulary of the workplace is now filled with new terminology like outsourcing which describes the practice of laying off workers and replacing them with individuals—called either temporary workers, contract workers, or contingent workers—who lack the benefits of regular employees and can be treated accordingly, like disposable employees, to be purchased and discarded at will.

Mr. President, I have raised issues which I know go beyond the simple question of whether it is time to increase the minimum wage because I think we need to start thinking about these broader questions.

Secretary Reich has spoken out forcefully already about the need to reestablish the concept of corporate responsibility to the labor force. I would take that a step further and broaden it to the need to repair the deteriorating bonds between employers and employees in all sectors of our society.

As we approach the turn of the century, there are troubling signs that we may be moving backward, toward relationships between workers and employers that are reminiscent of the 19th century. I seriously doubt anyone wants to see the workplace of the 21st century resemble that of the last century. America left that era behind long ago.

A great Nation draws upon the strengths and contributions of all its people. John F. Kennedy said, in 1961, when he asked Congress 35 years ago to increase the minimum wage, ''Our Nation can ill afford to tolerate the growth of an underprivileged and underpaid class. Substandard wages lead necessarily to substandard living conditions, hardships and distress.''

Let's do our job.

Let's vote for an honest increase in the minimum wage.

Let's acknowledge that America's prosperity rests upon the well-being of its people, its work force, and their families.

Mr. KYL. Mr. President, it is regrettable that the bill that comes before us

today combines two unrelated and very different issues—tax relief with an increase in the minimum wage.

I presume that the two issues were coupled in an effort to mitigate the adverse effect that the minimum wage increase would have on small businesses. It would not, however, mitigate the adverse effect on those individuals who will be unable to find jobs, or who will lose their jobs, on account of the increased wage that the Federal Government will have mandated.

The Congressional Budget Office (CBO) estimates that the proposed 21-percent increase in the minimum wage to $5.15 would create job losses of between 100,000 to 500,000. In addition, CBO has said that the creation of thousands of jobs could be inhibited if the minimum wage is increased.

I have heard from numerous constituents who are opposed to an increase in the minimum wage. One motel management owner in Arizona wrote me to say that the tax repeal provisions of the bill are not enough to offset the negative ramifications of an increase in the minimum wage. Another constituent, the owner of a fast-food restaurant in Arizona, wrote to say that employees could be let go if the minimum wage is increased.

Congress can best facilitate increased job creation and wages by decreasing governmental interference in business and reducing taxes. I ask unanimous consent that a recent Arizona Republic editorial that provides a good summary of why raising the minimum wage is a bad idea be reprinted in the RECORD.

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

[From the Arizona Republic, May 15, 1996]

MAXIMUM POLITICS

The tea-leaf readers in Washington predict congressional approval of a hike in the nation's minimum wage, probably coupled with some other tax-related legislation, in the next few weeks. Alternative plans are to raise the wage, now at $4.25 an hour, by 90 cents or $1.

What makes the vote to raise the minimum wage a near sure thing is that it has nothing to do with economics. Indeed, most economists say raising the minimum wage is likely to hurt those its supporters say they intend to help: the poor.

It doesn't take a degree in economics to understand why. Raise the price of labor to businesses and businesses are likely to respond by trimming some jobs. How many is open to debate. One familiar bench mark is that every 10 percent rise in the minimum wage trims 1 percent to 2 percent of affected jobs. Therefore, the legislation might endanger up to 200,000 U.S. jobs.

But forget economics. As the Washington Post's Robert Samuelson reports, it's election-year politics that's driving the minimum-wage push. Plain and simple. Consider: President Clinton says he's a backer of raising the wage. But in 1993 and 1994, asks Samuelson, guess how many times he advocated raising it when his party controlled Congress? Zero. Nada. Zip. Nil.

In 1995 and the first part of 1996, by way of contrast, Clinton has publicly thumped the tub for a minimum-wage hike 47 times by Samuelson's count. The economics of the argument hasn't changed, but the politics has. The American public overwhelmingly believes that raising the minimum wage is a good idea. So, for politicians, the issue is a no-brainer.

What likely accounts for the strong public appeal for raising the wage is that it seems like a decent thing to do. Maybe some of us remember working for the minimum and think back that it would have been nice to have a dollar more an hour. Families can't live on $4.25 an hour these days, we think. (But they'd get by even less easily without that job.)

Samuelson cites two myths he says are responsible for the public's support for boosting the wage. The fact that some of us remember earning it is a clue to one: that there's a permanent group of workers stuck at the minimum. Not so. The vast majority of minimum-wage workers quickly move up.

The other myth is that many minimum-wage workers are heads of households. In fact, says Samuelson, the data show that single parents make up only 3 percent of minimum-wage workers. More often than not, the typical minimum-wage worker is a teenager or young adult from a middle-class family or the second part-time jobholder in a two-income family.

Will raising the minimum cause great economic harm? Hardly. The loss of 200,000 jobs would cause hardly a ripple. Over time, they'd likely be replaced. But is it good policy? Not if the intent is to help poor people, who stand to lose some economic opportunities as a result.

A better way to help the working poor would be to make tax deductible the 6.2 percent of their wages they now are required to pay in payroll taxes to fund Social Security. It wouldn't add to the cost of labor, but would, according to the tax reform commission chaired by former Congressman Jack Kemp, give a boost to the incomes of 100 million U.S. workers and boost the GDP by half a percentage point. It also would end the unsavory practice of taxing a tax.

But good sense, economic or otherwise, is not what's driving the minimum-wage push. Political capital is what's at stake, and so long as it involves spending or jeopardizing other people's money it comes cheap.

Mr. KYL. Mr. President, there are far too many people in Washington who like to play fast and loose with other people's money. They are not content just to tax away a large share of people's hard-earned incomes to spend on government-knows-best programs. They even want to tell people how they have to spend the money they have left over after taxes.

They trust the American people so little that they feel they have to dictate what benefits they can receive and even what wages they can work for. Combined with high taxes, it is a prescription for the kind of anemic economic growth and stagnating wages that have been plaguing the Nation. It is like rearranging the deck chairs on the *Titanic*. The economy is still in peril.

Mr. President, I contend that the way to get people off of minimum wage is to ensure that the economy is healthy and growing and providing people with the opportunity to earn a better living for themselves and their families.

It is no coincidence that slow economic growth and stagnating wages have predominated since the low-tax policies of the 1980's were abandoned in favor of the high-tax policies of the 1990's. As noted in a recent report by the Institute for Policy Innovation, the economy has grown by about 2.2 percent on average so far this decade. By comparison, it grew at an average annual rate of 3.3 percent during the Reagan years.

Had the economy done as well during the Bush and Clinton administrations as it did under President Reagan, the economy would be $2.6 trillion larger than it is today. That would have added $21,000 to the average family's income between 1990 and 1996. Annual revenues to the Treasury would have been $90 billion greater, an amount that would cut this year's budget deficit by more than half.

So how do we promote the kind of growth that helped make everyone better off during the Reagan years? Cut taxes. As President John F. Kennedy once said, ''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 tax relief provisions in this bill, H.R. 3448, are a modest first step in the right direction. For example, we extend the tax exclusion for employer-provided educational assistance, something that will help people improve themselves and get ahead.

We extend the work opportunity credit and increase expensing for small businesses to encourage them to invest in new property and create new jobs. We extend the research and experimentation tax credit, and permit nonworking spouses the same opportunity to save in individual retirement accounts.

These and other changes in the law relating to S corporations and pension law are good steps toward making tax policy more conducive to economic growth and opportunity. I would add, however, that they are only modest first steps. They are no substitute for the across-the-board income tax rate reduction that many of us think would do far more good for the economy.

The tax changes we are considering here are good and sound. If we had the opportunity to vote on the merits, I would support them. However, these modest changes are not sufficient to justify the high cost of the minimum wage increase being proposed —a cost that will be borne by employees as much as employers.

Mr. KOHL. Mr. President, I rise in support of the Kennedy amendment to raise the minimum wage and against the Bond amendment, which would retain the status quo and deny an increase for millions of low wage workers.

Mr. President, we have just returned from the Independence Day recess. I always value the time spent in Wisconsin during breaks in the Senate schedule. Not only does it mean going home, it means spending time with people who work hard and work together by compromising in their daily lives.

Hard-working families struggling to make it to the next pay-check do not have the luxury to shirk responsibility or skip their work. They must go to work every day and get the job done. That's why it shouldn't be a surprise when the people of this country grow more and more pessimistic, even angry, because Congress has yet to get the job done and pass meaningful legislation.

In the attempt to score political points and out-maneuver the other party, legislation that is critical to working families has languished or been killed.

Instead of increasing investments in education and job training to provide the foundation for a stronger economy, these programs have been cut. The earned income tax credit, which helps working poor families stay afloat, has been targeted for huge reductions. A bipartisan health care reform bill that passed the Senate by a 100–0 vote has become stalled and may die because some want to poison the modest reforms with controversial provisions. Bipartisan campaign finance reform legislation has been killed. And balanced budget legislation, which everyone agrees is needed to end deficit spending and shore up the economy for our children's future, is now also on a partisan track to failure.

Despite the odds that partisan politics may win the day, I remain hopeful that moderate proposals can still be enacted during this Congress. One of the most important bipartisan and moderate intitiatives is the minimum wage amendment offered by Senator KENNEDY. This amendment closely resembles the wage increase passed by the House of Representatives and excludes controversial provisions rejected by a majority of House Members.

The Kennedy amendment would allow some of the hardest working American's to make a better life for themselves and their families. It would increase the minimum wage from the current level of $4.25 to $5.15 over 2 years. Granting a 90-cent wage increase over 2 years will help these families keep up with inflation and stay at or above the poverty level. Over 200,000 workers and their families in my State of Wisconsin would benefit from the increase.

This amendment would be coupled with a series of tax breaks for small businesses to help offset the potential effects of the wage increase. I remain concerned about the challenges facing small businesses even though many prominent economists argue that the modest increase proposed would not significantly jeopardize employment or business opportunities. So I am pleased that these tax breaks will help ensure that any impact is minimal.

The Bond amendment is a stark contrast to this reasonable minimum wage proposal. Instead of starting the 2-year increase this year, the Bond amendment would delay for 6 months the much needed raise. Further, the Bond amendment holds down millions of American workers who are employed at small businesses or who work in the restaurant industry by carving out huge exclusions to the increase.

Anyone who has been on the job for less than 6 months would get no increase. At least 4 million workers would be affected by this permanent submimimum wage. Under Senator BOND's proposal, another 2 million workers would be denied any increase because they work for tips. The complete exemption provided for companies that earn less than $500,000 annually would result in workers at two-thirds of all small businesses being left behind.

Supporters of these exclusions claim that the minimum wage increase would devast small businesses. Even though it is arguable that significant negative effects would result from a modest minimum wage increase, the proposal before us would provide 34 specific tax breaks for small businesses.

History also argues against this claim. Since the last minimum wage increase, far from being devasted, small businesses have helped spur economic growth and bring our Nation out of recession. Under the Bond amendment, scores of small businesses would be rewarded with generous tax breaks even though they would be exempted from raising the wages of their lowest paid workers.

Opponents of the minimum wage have also been quick to assert that minimum wage earners are mainly teenagers from middle class families. Again, the facts tell a different story. Two-thirds of those paid the minimum wage are adults and a third of those are the sole household wage earners for their families. If granted the minimum wage increase without exclusions, over 2.3 million children from poor and near poor families would benefit.

Mr. President, recent reports on the economy continue to show healthy growth and provide optimistic prospects for business. But although unemployment is down and millions of jobs have been created over the past 3 years, the average American worker remains uneasy.

With the strong economic growth, corporate CEO's have been rewarded with sky-high salaries and impressive benefits. In contrast, real wages have become stagnant for many Americans and their standard of living has decreased over the years. Perhaps more disturbing, working families have seen their health benefits eroded and opportunities for child care diminished.

The Congress cannot create complete equity in the work force and resolve all of the challenges of working families. That is not realistic and ignores the fundamentals of our economy. But there are actions Congress can take that will make a real difference.

We can help ensure health security by reforming the health insurance market; we can provide child care and education opportunities by balancing Federal investments in these programs; and I still believe we can balance the Federal budget in a fair manner. Today we can and must help the lowest wage workers by passing a long-over due minimum wage increase. The House of Represenatives has already done so, it is now time for the Senate to act.

Mr. President, 5 years have elapsed since the minimum wage was increased and the real value of the wage has fallen by nearly 50 cents over that period. Furthermore, the real value of the minimum wage is 29 percent lower than it was in 1979. Without action, the value of the minimum wage will plummet to a 40-year low by 1997. Do people really believe that working at $4.25 an hour, which amounts to $8,500 a year, is a fair and livable wage?

To deny America's lowest paid workers a sustaining wage during a time of substantial budget cuts simply represents misguided priorities. This is precisely the time when we need to reward the people who work. If we are going to cut funding for education and training and reform welfare, we must provide individuals with the economic tools necessary to get ahead.

The last minimum wage increase under President Bush enjoyed broad bipartisan support. I urge my colleagues in the Senate to undertake a similar bipartisan effort today and demonstrate their commitment to working families by restoring the fair value of the minimum wage.

The Senate is faced with a critical choice that will determine whether or not the minimum wage increase becomes a reality this year. One amendment would provide a modest minimum wage increase to the working poor; the other would grant an increase to some workers, but leave millions of Americans with stagnant wages and result in a certain presidential veto. Let us do the right thing by passing the Kennedy amendment and rejecting the Bond amendment.

Mr. PRESSLER. Mr. President, I rise in support of the amendment offered by the chairman and ranking member of the Finance Committee—the so-called managers' amendment. I just want to take a moment to comment on a few of the provisions of the amendment that are very important to churches and ministers in my home State of South Dakota.

Specifically, there are three provisions in the managers' amendment that are taken from S. 881, the Church Retirement Benefits Simplification Act, introduced by friends and colleagues from Iowa and Arkansas, Senators GRASSLEY and PRYOR. This bill already has 34 cosponsors. One of the provisions in S. 881 was included in the House-passed version of the underlying legislation we are considering today. This provision would respond to the Internal Revenue Service retreat from its four-decade-old policy of not taxing parsonage allowances paid to retired clergy. The provision would clarify

that all retirement benefits of clergy are not subject to self-employment taxes.

The three additional provisions of S. 881 that are included in the managers' amendment address the churches' concerns regarding the treatment of chaplains and foreign missionaries and the application of nondiscrimination rules designed for secular employers to church pension plans.

First, the manager's amendment would clarify that chaplains may continue to participate in denominational pension plans. Under current law, chaplains who work outside the church, serving in hospitals, jails, and other secular organizations, are not expressly allowed to participate in their denomination's pension plan. Often, chaplains may leave their church to work in a secular organization for only a brief period of time, and it makes little sense for Congress to force those chaplains to participate in the secular pension plan instead of the denominational one. The managers' amendment simply would clarify that chaplains may participate in their denomination's plan without inadvertently violating pension coverage and related rules.

Second, the managers' amendment would facilitate the ability of foreign missionaries to participate in their denominational pension plan. This amendment would promote sound retirement policy while also benefiting the foreign missionaries who are America's humanitarian emissaries abroad.

Finally, the managers' amendment would authorize the Secretary to develop a safe harbor from the nondiscrimination rules for those church plans that were left out when Congress exempted most church plans from the same nondiscrimination rules. Although the IRS has issued a self-imposed moratorium on enforcement of these nondiscrimination rules for church plans, that moratorium ends soon. This amendment would give the Secretary of the Treasury the authority to develop a safe harbor plan for the pension plans of the Catholic dioceses, the Episcopalian Church, and the Presbyterian Church. These churches simply do not have the infrastructure to prove compliance with the nondiscrimination rules which apply to secular employers.

Again, I want to commend the two managers—Chairman ROTH and Senator MOYNIHAN—for their assistance in addressing the concerns of the churches in this legislation. Thanks to their leadership, we can correct and clarify the laws to ensure that they not unduly burden church retirement plans and the clergy and lay workers who participate in them.

Mr. CRAIG. Mr. President, I rise in support of the amendment to H.R. 3448 offered by the chairman of the Small Business Committee, Senator BOND. I also support the Finance Committee's amendment to the tax title of that bill, which already has been adopted.

For once, with the inclusion of these amendments in H.R. 3448, Congress would be looking at an issue in context and taking in the big picture. Both amendments are necessary to make this an acceptable bill, on balance.

This bill is supposed to be named the ''Small Business Job Protection Act of 1996.''

Title I, the tax title, is consistent with that spirit. It would make the Tax Code a little fairer, improve economic and employment opportunities, and provide some necessary tax relief.

However, unless the Senate adopts the Bond amendment as well, this bill will not be worthy of its name. It will not protect small business. And it will hurt the low-wage breadwinners it is supposed to help.

I commend Senator BOND and Senator ROTH for the work they have done on their amendments.

All too often, past Congresses have taken a perceived problem; put it under a microscope; and tried to address it with a one-size-fits-all Federal mandate. The result often has been Government by anecdote. Unintended consequences and innocent bystanders have not always been taken into account in the rush to adopt a feel-good solution.

That risk of unintended consequences is definitely present in the case of proposals to increase the Federal minimum wage.

We feel for those Americans who are working hard at making ends meet. It is easy and it is tempting to look at a $4.25 an hour minimum wage and say, let's just mandate an increase in that wage. But that would be the wrong answer.

Standing alone, an arbitrary increase in the minimum wage destroys jobs for the very persons it is meant to help—the working poor and entry-level employees.

Common sense, the laws of economics, and experience all tell us this. There is no dispute over this fact, except from some inside the Washington, DC, beltway and from some academicians with a political agenda.

We've all heard the numbers. The commonly accepted figure is that, an arbitrary, stand-alone increase in the minimum wage from $4.25 an hour to $5.15—a 21-percent increase—would result in the loss of 621,000 jobs. In Idaho, it would destroy 3,200 jobs.

Some have suggested that the economic impact of such an increase is negligible. But it's not negligible for each one of those 621,000 Americans—or possibly more—who would lose their jobs as a result. In many cases, the job lost would be the most important one that person will ever have—his or her first job.

The Bond Amendment takes a fair and balanced approach that would minimize the harm that would come from a one-size-fits-all, federally mandated increase in the minimum wage. It would treat small employers fairly and would be good for those entry-level workers most in need of making it to the first rung on the ladder of economic opportunity.

Unlike the amendment defeated in the House, the small business exemption in the Bond Amendment would apply only to the minimum wage increase in this bill.

Mr. President, most Senators were serving in Congress in 1989. We remember what happened when we finally voted for a compromise minimum wage bill then. Everyone—if you read the RECORD, you will see everyone—thought and said there was a small business exemption in that bill for every small business with gross receipts of less than $500,000. That bill would not have passed in 1989 without that $500,000 exemption. Everyone understood that the 1989 compromise would increase the small business threshold from $362,500 to $500,000 and broaden the exemption from some service and retail employers to all enterprises.

But then, a bureaucrat at the Department of Labor noticed an apparent drafting error. The bill's language was convoluted and was interpreted as applying the Fair Labor Standards Act to virtually every individual employee in the country, regardless of the employer's receipts. I say it was an apparent drafting error because everyone thought there was a universal, $500,000 threshold, and I do not want to accuse anyone of lying to the Congress or the President back in 1989.

Correcting this apparent drafting error had been a bipartisan effort up until recent weeks. Democrat Members in both the Senate and the House previously introduced bills to restore this intended exemption, in bills that would have gone farther than the Bond Amendment.

In recent years, small businesses have created every net new job in this country. They take the risks of hiring and training new workers. They do not have the economies of scale of large businesses and suffer a disproportionate impact from Government regulation. They tend to be labor intensive. If you drive up the costs of their labor, they will be forced to create fewer jobs.

In fact, 77 percent of the economists who responded to a survey of the American Economics Association agreed that, by itself, a higher mandated minimum wage would have a negative impact on employment.

Obviously, that negative impact is going to fall on workers at or near the minimum wage, and especially those who are the least-skilled and need an entry-level job the most. The Bond amendment would safeguard the most vulnerable employees, those of the smallest businesses, against that impact.

The Bond amendment also includes a realistic opportunity wage, or training wage.

Realistically, the Federal minimum wage today already is a training wage. The average minimum wage worker is earning $6.06 an hour after 1 year.

In most work places, at every level of compensation, it is common for a new employee to be paid more after a few months. That is because there is almost always a learning curve, during which the employer is investing time, energy, and money in training and acclimating the new employee. The opportunity wage in this amendment simply reflects that reality of labor economics.

Some critics have said the training wage would allow churning of employees—the firing of employees when they become eligible for the new, higher, minimum wage, and replacing them with new hires at the training wage. The Bond amendment makes that practice specifically illegal.

Finally, the Bond amendment would provide employers—especially small businesses with limited resources and profit margins that are slim or nonexistent—with a more realistic effective date for this bill.

Unlike the Federal Government, employers make reasonable projections of their revenues and then budget their resources to live within those means. To impose an immediate increase in costs of thousands of dollars would be a cruel jolt to many small, vulnerable employers. To do so retroactively, as would happen under the Kennedy amendment or the House-passed bill, would be unconscionable.

The Bond amendment would provide the necessary flexibility to protect the workers and small businesses that would be most vulnerable to a one-size-fits all mandate. It is an important part of a two-step process to improve this bill. The second step is the inclusion of the tax provisions that would provide essential relief for small businesses, help them create jobs, and make the Tax Code a little fairer.

I particularly want to express my support and appreciation for several of the tax provisions in title I of this bill, including:

Increasing the availability of spousal individual retirement accounts; revising and extending the work opportunity tax credit, which will help employers hire and retain disadvantaged employees; restoring and extending the tax exclusion for employer-provided educational assistance; making S-corporation rules more flexible; providing fairer treatment for dues paid to agricultural or horticultural organizations; extending the research and experimentation tax credit; and improving depreciation and expensing rules for small businesses.

I have supported these provisions consistently in the past and commend the Finance Committee for including them in this bill.

There is at least one provision in the House-passed version of this bill that I hope the Senate would accept in conference: Restoring and making permanent the exclusion from FUTA—the Federal unemployment tax—for labor performed by a temporary, legal, immigrant agricultural worker. Such employees are ineligible for FUTA benefits that are financed by this tax. Therefore, this tax is imposed on employers for no reason, except that the previous exclusion simply expired.

The Finance Committee provisions are valuable and beneficial. And I commend the chairman of the Small Business Committee for the thoughtful approach he has taken on his amendment. For me to vote for this bill, it would also be necessary for us to adopt the Bond amendment, which includes essential safeguards for employees and small businesses alike, and make this package complete.

HIGHER EDUCATION SAVINGS ACT

Mr. MCCONNELL. Mr. President, I am pleased that the Finance Committee has included my proposal to clarify both the tax treatment of the State-sponsored education savings plans and taxation of the beneficiary's investment. This measure will put an end to the tax uncertainty that has hampered the effectiveness of these State-sponsored programs and help families who are trying to save for their children's higher education needs.

I have been working on this proposal since I first introduced S. 1787 in 1994. This Congress I have introduced S. 386 to provide families with an incentive to save for college and put an end to the tax uncertainty regarding the State-sponsored programs. This legislation will offer families an opportunity to save in order to keep pace with the spiraling cost of education. S. 386 has been endorsed by the National Association of State Treasurers, the National Association of State Scholarships and Grant Programs and the Kentucky Advocates for Higher Education.

Mr. President, the facts are clear. Education costs are outpacing average wages, creating a barrier to attending college. Throughout the 1980's education costs have risen by roughly double the rate of inflation. In 1983, tuition at the University of Kentucky and University of Louisville rocketed 16.7 percent followed by an 11.2-percent increase in 1994. Since 1986, the cumulative percentage increase in tuition at Kentucky's two largest public universities rose an astounding 82.3 percent.

Unfortunately, Kentucky's numbers are not extraordinary when compared to average tuition increases nationwide. Over the past 10 years, tuition rose by 81.7 percent for public universities and 95 percent for private schools compared to 46.6 percent increase in the median income for the same period. Which brings us to the real problem: education costs are quickly out-pacing income growth.

As tuition costs continue to increase, so does the need for assistance. In 1990, over 56 percent of all students accepted some form of financial assistance and the statistic was even higher for minority students. It is increasingly common for students to study now and pay later. In fact, more students than ever are forced to bear additional loan costs in order to receive an education. In 1994, Federal education loan volume rose by 57 percent from the previous year. On top of that, students have increased the size of their loan burden by an average of 28 percent. So not only are more students taking out loans, but they are taking out bigger loans as well.

Over the past decade, many States have tried to respond to the concerns parents have raised regarding the affordability of a college education. Today, 11 States, including Kentucky, have responded by developing programs that will provide families with incentives to save over the long term to make college more affordable. Sixteen other States are quickly moving to put into place their own education savings plans.

Currently, there are 500,000 participants investing over $2 billion in State-sponsored savings programs. In Kentucky, there are 2,700 participants with $4 million invested in their children's future. Under this plan, participants don't have to be rich to benefit. In fact, the average monthly contribution in Kentucky is just $47.22. This proposal rewards those who are serious about their future and are committed to the education of their children.

The language included in this bill is a variation of my original legislation. It provides tax-exempt status to qualified State tuition programs. In November 1994, the U.S. Appeals Court ruled that the Michigan Education Trust is not subject to Federal income tax. Although the circuit court was quite clear on this issue, it is my understanding that the IRS continued to look for a different avenue to tap this growing investment pool. This proposal clarifies legislatively the tax status of these programs and puts and end to the uncertainty and constant threat posed by the IRS. I am told by Kentucky's program administrators that this tax clarification is their No. 1 priority and vital to the continued existence of the program.

This legislation will also clarify the tax treatment of the investment itself. As proposed in the recent Treasury regulations, the child would be taxed on the earnings buildup at the time of distribution. While my original legislation proposed the inside buildup be fully tax exempt, I believe that this clarification is a significant reform and consistent with the limits of this bill. I want to assure every one of my colleagues that I will reintroduce legislation and continue my efforts to make the inside buildup in this investment tax free. Nonetheless, this proposal will be a tax cut for Kentucky participants since they have been forced to pay taxes annually to avoid possible penalties, while the IRS has been considering the tax treatment of this investment.

This legislation is not a funding cure but is a serious effort to encourage long-term savings, by eliminating the tax disincentive to do so. Aside from

limited assistance through bond programs, nothing has been done to encourage savings or decrease borrowing. I believe it is widely agreed that it is in our best interest as a nation to maintain a quality education system for everyone. We need to make a decision, however, on how we will spend our limited resources to ensure that both access and quality are maintained.

Before I close, I would like to take a moment and commend Senators ROTH, GRAHAM, SHELBY, and BREAUX for their hard work and support of this legislation. I appreciate their interest and look forward to working with them in the future to make these investments tax exempt.

SMALL FISHING VESSELS

Mr. KERRY. Mr. President, for almost 8 years hard-working owners of fishing vessels in New Bedford, MA have been subject to an Internal Revenue Service ruling that would result in approximately $11 million in penalties. This situation arises from an IRS misinterpretation of Tax Code provisions as they applied to crew members on small fishing vessels. The IRS's interpretation and assessment is potentially devastating to the fishing families in southeastern Massachusetts—a region already struggling with the departure of the textile industry and the demise of the fishing industry. I am pleased that the managers amendment to H.R. 3448 includes a section clarifying the application of this disputed provision and making the original intention of the Congress clear with respect to it.

I have worked on this issue for many years along with the senior Senator from Massachusetts as well as colleagues in the other body, especially Congressman BARNEY FRANK, Congressman GERRY STUDDS and Congressman RICHARD NEAL.

Mr. President, today the Senate is providing relief for four fishing vessels in New Bedford—F/V *Edgartown*, F/V *Nordic Pride*, F/V *Lady J*, F/V *Seel*—by rendering moot a court action against them. Central to the case is the question of whether crewmembers on small fishing vessels are considered self-employed or employees for tax purposes. The pay of employees is subject to withholding of Federal income tax while payment to persons who are self-employed is not subject to withholding.

Life on the seas requires fishermen to be ruggedly independent individuals. Fishing boat operations reflect this independence in that they are fundamentally small business operations with crews that typically vary from trip to trip, with each crewmember acting as a free agent. Recognizing this unique arrangement on fishing vessels, Congress amended the Tax Code in 1976 to clarify the employment status of crewmembers as self-employed and required the self-employed crewmembers to be compensated solely with a share of the catch.

It is common practice in fishing communities around the country to provide a small cash payment called a ''pers'' to the cook, first mate and engineer in recognition of additional duties they perform at sea. These pers represent only 1 to 5 percent of the total compensation and amount to approximately $500 annually based on a $30,000 income.

In 1977, the IRS issued Ruling 77–102 which stated that a pers payment would subject the entire salary of the pers recipient to withholding. In response, the industry initiated a sliding scale per that ranged from $24.50 to $25.50 depending on the catch. The IRS did not question this practice until 1988 when the Service suddenly issued an unexpected interpretation of the pers payment and ruled retroactively that the entire salaries of crewmembers receiving pers were subject to withholding. The IRS ruling means that much of the New Bedford fleet does not qualify for the small fishing vessel treatment on withholding and therefore each boat owner owed the IRS large amounts in back withholding for the fishermen who worked on them. As a result, IRS placed liens on property and is poised to begin enforced collections from the boat owners which will be devastating to the New Bedford fishing industry as it struggles to survive until the groundfish stocks recover.

This bill will permit the pers payments—which are essentially calculated as a share of the catch—without jeopardizing the self-employment status of crewmembers. Let me emphasize, Mr. President, that the boat owners believed they complied with the new tax laws and regulations, and in fact they did comply with the law as Congress intended it to be applied to small fishing vessels. The vessel owners paid the crew the amounts the IRS now claims should have been withheld, and the crewmembers, as contractors, were individually responsible for paying taxes due on those payments. To assess these boat owners now would be grossly unfair and will have the effect of sinking the New Bedford fleet.

Those of us trying to remedy this situation have been working for a solution for 7 years. We have appealed to the Treasury Department and the Internal Revenue Service, and introduced legislation that was vetoed twice by President Bush. Today, we are working against the clock as the Court of Appeals will soon hear the vessel owners appeal if this provision of H.R. 3448 is not enacted into law.

Mr. President, this has been a long and difficult struggle to provide relief for the fishing families of New Bedford. I am pleased we are on the cusp of victory. Until the bill is signed by President Clinton, I will continue to fight for these hard-working families in southeastern Massachusetts.

Mr. SPECTER. Mr. President, I am voting in favor of increasing the minimum wage because there has been no increase since 1989 while cost of living adjustments have been provided to others.

I am pleased to note that this bill, the Small Business Job Protection Act of 1996 provides benefits to small business which will offset their higher wage payments. Among important provisions to help small business, the bill as amended includes over $11 billion in tax incentives, such as tax incentives for employer-provided tuition aid, increased expensing limits for small business equipment purchases, pension simplification rules, and extension of expired tax credits for research and development, employment of certain targeted individuals, and the orphan-drug tax credit.

With respect to the minimum wage provisions of this bill, while I have given serious consideration to the provision to exclude businesses with less than $500,000 in annual revenues, I have decided to vote against the Bond amendment because of the provision that delays the increased minimum wage for 6 months regardless of the age of the employee. That would allow too much opportunity for circumventing the law by discharging employees just short of the 6-month period and employing new people.

I am voting against the Kennedy amendment because I believe the provisions of the underlying House bill provide a better balance with the longer waiting period of 90 days before the new minimum wage must be paid compared to only 30 days in the Kennedy amendment and because the House bill provides more equitable treatment for restaurant owners on the tip issue.

In this statement, I am including, at the manager's request, an explanation for my amendment which will help small businesses in their efforts to operate defined benefit pension plans. This amendment will help small businesses in their efforts to comply with new stricter funding rules enacted as a part of the Uruguay Round Agreements Act [GATT]. It gives the Internal Revenue Service [IRS] the authority, under very limited circumstances, to waive the excise tax that is imposed on a company that fails to meet a liquidity requirement mandated under the new law.

By way of background, at least two small Pennsylvania companies, Freedom Forge Corp. of Burnham and Erie Forge Corp. of Erie were not aware of the new liquidity requirements when they became effective less than 1 month after the GATT enabling bill was enacted. The bill had no transition rules that applied to the new liquidity requirements. I am advised that the Pension Benefit Guaranty Corporation, the Federal agency with jurisdiction, called companies proactively to inform them of the new liquidity requirements, but that these two Pennsylvania companies are among the only companies not to receive such counseling. Consequently, these companies were unable to prepare for their new obligations in a timely manner and, I am informed, had to increase their pension plan funding by approximately 1,500 percent.

Once the companies became aware of the new law and the resulting dramatic

increase in pension obligations, I understand that they acted as quickly as possible to come into full compliance with the law and remain in compliance today. However, because they did not receive the same warning from the Pension Benefit Guaranty Corporation as other companies did, they are subject to a penalty excise tax for the first quarter in which they were not in compliance with the new law.

Currently, the Internal Revenue Service has no statutory authority to waive the penalty excise taxes that apply in these instances, even where the contribution due the plan was due to reasonable cause and reasonable steps have been taken to remedy the liquidity shortfall. In the absence of a legislative remedy, these companies will be forced to pay penalties to the IRS because they did not immediately comply with a law they had no knowledge of, in spite of their proven best efforts to fund their pension plans once made aware of their new responsibilities under the law. While ignorance of the law generally is not an excuse, I believe, Mr. President, that where the Government actually notified and counseled companies, but not these, it is appropriate that the tax penalty be waived.

Accordingly, my amendment that the distinguished managers of the bill included in their package of amendments would provide authority to the IRS to waive the excise tax in those cases where the shortfall was due to reasonable cause and reasonable steps were taken to remedy the liquidity shortfall. In consulting with the Pension Benefit Guaranty Corporation about this problem and a possible legislative solution, I am advised that the agency said that their primary interest is ensuring that pension plans have adequate funds to pay their benefits. The agency recognizes that some companies had difficulties complying with the new liquidity requirements due to a lack of transition rule. Therefore, I am advised that the agency has no objections to my amendment so long as it requires that reasonable steps have been taken to remedy the shortfall as a condition of the waiver, which my amendment provides.

This change in law will enable Freedom Forge Corp., Erie Forge Corp. and any other company that may find itself in a similar circumstance to be treated with fairness. Without fair pension laws, small companies will be unlikely to undertake this substantial responsibility. As legislators, we should be encouraging small employers to provide a pension plan for their employees, not discouraging them. Therefore, I commend Chairman ROTH for his understanding of pension policy and for including this important amendment in the managers' amendments package.

I thank the Chair and yield the floor.

Mr. HELMS. Mr. President, the Small Business Job Protection Act of 1996 includes two essential and much-needed provisions that I've supported for years. Together, these provisions will extend for 3 years the tax credit for employer provided educational assistance to workers, and it will allow spouses to invest fully in tax-deferred individual retirement accounts even though they are not employed outside of their homes.

Reauthorization of the employer provided education tax credit, codified at section 127 of the IRS Code, will enable American workers to provide for their families in a more substantial way. First authorized in 1978, this provision has helped more than 7 million working Americans to further their education and to acquire additional skills.

Mr. President, earlier this year I introduced Senate Concurrent Resolution 57 to extend this critically needed tax provision. I was gratified and encouraged when this resolution was adopted. Now, it's time for the Senate to act on the commitment expressed in Senate Concurrent Resolution 57 and extend the credit through December 31, 1997.

Mr. President, this Congress approved a reauthorization of this tax credit in the Balanced Budget Act of 1995. Notwithstanding his rhetoric in support of education, the President vetoed the bill, and prevented the extension of this urgently needed education tax credit, while sowing uncertainty among the workers and employers who were understandably relying upon these tax-free benefits.

This uncertainty is particularly acute among workers and employers in areas undergoing sweeping economic changes. In my State of North Carolina, thousands of textile workers have lost their jobs in recent years, while other industries have experienced phenomenal growth. Extension of this credit will help all workers by encouraging employers to provide tax-free education benefits to their employees, thereby benefiting employers by improving worker skills while benefiting their workers by reducing concerns about job security.

Mr. President, perhaps the case for extending this credit was made most eloquently by two distinguished North Carolinians. Representative of employer concerns, Nan Keohane, president of Duke University in Durham, NC, wrote to me saying that:

> We at Duke believe it is important for our employees to achieve their educational goals and to acquire the skills they need to succeed in an increasingly complex society. The ability to exclude education benefits from personal income tax is obviously important to our own employees, and particularly to those who otherwise could not afford the educational costs that the tax on these benefits would require.

Typical of letters from workers who have written to me is one by Jeff Stanley, a fine young man who works for Motorola in Research Triangle Park. Jeff has been working toward a Bachelors Degree in Business Administration at North Carolina Wesleyan College; he is close to completing it. However, his employer-provided education benefits are, he says, ''taxed at approximately 40 percent'' and that ''[t]his extra expense is causing a financial hardship. I would very much like to complete my degree within the next year, but due to the extra expense of the taxation, I may have to delay the completion.''

Passage of the Small Business Job Protection Act will ensure that Jeff Stanley can complete his education without those benefits being made subject to a 40-percent tax rate, the effect of which is to discourage pursuit of a life-long education goal. This time, I hope the President will permit this important provision to become law.

Another provision of the bill proposes that spouses may invest fully in an individual retirement account. Current law prohibits these working spouses from investing more than $250 in an IRA. Yet, if the same spouse works outside the home, he or she is able to participate fully in IRA tax-deferred investments—to the tune of $2,000 per year.

The Small Business Job Protection Act eliminates this double-standard and recognizes the value of those who labor in the home. In the process, it will benefit the estimated 18.6 million households with married couples. Many of those households include a parent who chooses to work at home, frequently sacrificing more lucrative careers for the more rewarding job of raising children. It's common sense that the tax code shouldn't discourage these parents from working in the home.

Mr. President, the IRS Code is a testament to the big-spending leviathan known as the Federal Government. In addition to over-taxing American citizens, the Code contains countless irrational provisions which ought to be scrapped. It's too bad that politics caused this bill to be burdened with an unwise increase in the minimum wage; rammed down the throats of countless thousands of small businesses who will have to eliminate untold numbers of entry-level jobs that are so meaningful to young workers today.

UNANIMOUS-CONSENT AGREEMENTS

Mrs. KASSEBAUM. Mr. President, if I may just do some housecleaning for the majority leader.

I ask unanimous consent that immediately following the stacked votes beginning at 12 noon on Wednesday, there be a period for the transaction of morning business not to exceed 1 hour, with 40 minutes of the time under the control of the Democratic leader or his designee, and 20 minutes under the control of Senator THOMAS.

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

Mrs. KASSEBAUM. I further ask that at 9 a.m. on Thursday there be a period for the transaction of morning business not to exceed 1 hour, 40 minutes under the control of Senator

DASCHLE or his designee, and 20 minutes under the control of Senator COVERDELL.

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

Mrs. KASSEBAUM. I yield the floor, Mr. President.

SMALL BUSINESS JOB PROTECTION ACT OF 1996

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, I am happy to yield 8 minutes to my distinguished friend and fellow member of the Finance Committee, Senator GRAHAM of Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I wish to speak briefly on a provision which I hope will be included in this bill at the time we take our final vote. It is a provision which is of great importance to working parents and their children across America.

For years, one of the major challenges to American families has been how to plan for their children's educational future. This challenge has been exacerbated in recent years due to the continued rising costs of college education.

In response to this challenge, over the past 10 years States have formed innovative partnerships with families. These are typically known as prepaid college tuition plans. These plans, although not structurally identical, share a common purpose. These plans allow parents to pay in advance for a child's tuition at a participating college or university, thereby locking in today's tuition prices, guaranteeing the child's access to a future college education. The State then takes the funds which have been paid by the participant, typically the parent, and invests them in a way that keeps pace with the cost of college education. These programs are designed so that people of moderate means can help their children realize the dream of a college education. For instance, the typical Florida family participating in this program earns approximately $50,000 a year.

These programs are also tailored to maximize flexibility. Families can either purchase a prepaid tuition contract with a lump sum or, if they choose, they can pay the child's education in monthly installments. These plans, therefore, are affordable. For instance, those families who opt to invest on a monthly basis in my State of Florida put aside an average of about $53 a month, roughly the price of cable television service.

This affordability has made prepayment programs enormously successful in Florida and across the Nation. Most importantly, at a time when the next generation will struggle to provide for the financial security of its children, prepaid college programs provide a powerful incentive for families to save, to invest in their futures, to provide for some security when an unexpected tragedy occurs.

Let me share with you an example of such an unexpected tragedy. Mr. and Mrs. Daniel Gilliland enrolled their sons, Sean and Patrick, in the Florida program in 1988, the first year of its existence. Four years later, Sean entered the University of Florida as a freshman in the fall of 1992. In 1994, the father, Daniel Gilliland, died unexpectedly, just as the younger son Patrick was about to go to the University of Florida for his freshman year. The death of Daniel Gilliland was devastating to the family, but because the Gillilands were able to participate in the Florida prepaid college program both children were able to go on with their lives and continue their education. I will quote from a letter from Mrs. Gilliland, which I ask unanimous consent be printed in the RECORD immediately after my remarks.

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

(See exhibit 1.)

Mr. GRAHAM. She states, ''By expecting the unexpected, we were able to give both sons an education at a fine university that would certainly otherwise have been difficult for me as a single parent.''

When Daniel died, I silently offered ''thanks that we had the foresight and chance to participate in this program.''

Today, Sean is a senior at the University of Florida, ready to graduate with a degree in business. Patrick maintains a 3.6 average, while working toward a degree in athletic training.

Mr. President, it is because of success stories like the Gilliland's that the prepaid college programs are flourishing. Twelve States already have operating programs. Those States are those depicted in green on this map. Four States depicted in yellow will begin tuition programs this year, and a dozen more are moving towards enacting prepaid tuition legislation, those depicted in red.

As an example, the Texas prepaid tuition program, which was set up this year, receives 4,000 inquiries a day and enrolled 40,000 participants within the first few weeks of implementing the program.

In Florida, 376,000 families are currently participating in the program; 40,000 participants join each year.

Why, in the face of this great success, are we considering Federal legislation to affect State prepaid tuition plans? The reason is because early this year the taxation of these plans was called into question by the Internal Revenue Service. The IRS contacted six States with operating programs and informed them that the IRS intended to do two things: First, the IRS stated that it would treat the State fund as a taxable corporation rather than a tax-exempt government entity. Obviously, this action would make it difficult for States to meet their obligation to families under the plan. Second, the IRS stated that families should have to pay tax annually on the interest income earned on amounts transferred to the fund.

Mr. President, it just does not make sense to me that an individual who purchases a tuition contract should have to pay tax every year on the earnings on the funds. First, the contributor has surrendered control of his funds. He or she can only get money back if a student dies or should not qualify for college. And then, under most plans, the State refunds only the principal. Second, the contributor does not have access to the funds to pay the tax, since the money contributed to the tuition contract now belongs to the fund itself.

Given the fact that most who contribute to the fund are of modest means, it is a tremendous disincentive to investing in education to make contributors pay tax on interest income for up to 18 years before the child goes to college.

Because we felt so strongly about this issue, a bipartisan group of Senators, including Senators MCCONNELL, BREAUX, and SHELBY, decided to do something about it. In discussions with the administration and the Department of Treasury we were able to get the IRS to revisit this issue. I am pleased to report that on June 11 of this year, the IRS issued new rules that will temporarily exempt State tuition plans from interest income taxation. This matter has not been settled. The Department of Treasury has asked for help from Congress, asking us to clarify the tax treatment of these plans. Until we act, the financial future of these plans, along with the education of over a half-million participants nationwide, remains in limbo. This bill will clarify that these State programs are not taxable and that the earnings on the fund will not be taxed until the child goes to college.

Removing the specter of Federal taxation from these plans is particularly appropriate at this time, a time when Congress should be trying to foster innovative programs among the States and encouraging families' efforts to save and invest for their children's future.

I would like to particularly thank Senator ROTH and Senator MOYNIHAN for their support and assistance in including this important provision in the legislation. With enactment of this legislation, parents and children will be able to rest easier, knowing that Congress has done the right thing in protecting their investment and protecting their—and our—Nation's future.

EXHIBIT 1

MRS. DANIEL D. GILLILAND,
Bradenton, FL.

KAREN S. FENTON,
Editor, College Bound, Florida Prepaid College Program, Tallahassee, FL.

DEAR MS. FENTON: I am writing to acknowledge your invitation to share ''success stories''.

My husband Daniel and I enrolled our two sons Sean and Patrick in the College Program in 1988, I believe the first year this was offered.

Sean entered the University of Florida (Honors Program) in the fall of 1992 a graduate of Manatee High School, Bradenton, Florida.

Daniel died suddenly two years later at age 52, so with Sean then a sophomore, and Patrick about to enter his freshman year also at the University of Florida, I did silently offer thanks that we had the foresight and chance to participate in this program.

By expecting the unexpected, we were able to give both son's an education at a fine university that would certainly otherwise have been difficult for me as a single parent.

Today, Sean has reached his senior year pursuing a degree in business, with an area of specialization in Japanese studies.

Patrick presently in his sophomore year maintains a 3.6 average while working towards a degree in Athletic Training.

Thank you for allowing me to share this brief page from our lives with you and other participants of this college program.

Sincerely,

SALLY A. GILLILAND.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I am sure I can speak for the chairman, Senator ROTH, when I say to Senator GRAHAM of Florida that it is we who are indebted to him for having brought this matter to the committee, set forth the issues with clarity and succinctness, and won unanimous support for obviously an important subject—important not just to Florida but, as the map shows, to States across the Nation.

I see Senator CONRAD has risen. I am happy to yield 8 minutes to him.

The PRESIDING OFFICER. The Senator from New York has 5 minutes remaining at this time.

Mr. MOYNIHAN. I ask unanimous consent if I might use 3 minutes of the leader's time for Senator CONRAD.

The PRESIDING OFFICER. The Senator may do that.

The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I support the Small Business Job Protection Act of 1996 and urge my colleagues to join me in supporting this legislation. The Senate Finance Committee made a series of bipartisan changes in the bill as it came from the House, led by our chairman and ranking member, the Senator from New York. I want to publicly commend them for the outstanding job they did in improving this legislation. I especially want to single out the ranking member who has, as always, made enormous contributions to this finished product. I think this is a significant improvement over what was sent to the committee.

The bill raises the minimum wage by 90 cents over the next 2 years. I think everybody who has been following this debate understands that. The current minimum wage is at a 40-year low in purchasing power. Maybe I need to repeat that, because I think it is a stunning fact. We are not talking about a 4-year low, we are talking about a 40-year low in terms of its purchasing power.

I brought this chart that shows what the minimum wage has been from 1960 to the end of 1995 in purchasing power. As we can see, the minimum wage has been all over the map over this period of time. Without exception, it has been higher than it is today. It is time to act. It is the right thing to do. It is the fair thing to do.

Over the past 2 years, I and many others have supported welfare reform that encourages adult, able-bodied welfare recipients to work. However, any welfare to workfare reform, to be effective, must be accompanied by a living wage for those who do work. I do not know how anybody can seriously advocate welfare reform as it has been talked about in this Chamber and fail to support a living wage for those who do work. That is fair. That is what we ought to do.

The legislation before us also contains numerous provisions to help small businesses. I come from a State of shopkeepers, farmers, and small manufacturers. My State has many very small businesses. I was just telling a colleague that a cousin of mine ran a small gift shop in my hometown of Bismarck, ND. I know something about that business. I know that it provided a modest income. I am not going to use those figures here because back home people would know exactly who I am talking about and I would be breaking faith with a treasured relative. But I can tell you, I know what happens to small businesses. I used to be the tax commissioner of my State.

I have looked at the books and records of literally hundreds of businesses in my State, and I think I understand very, very clearly the pressure that an increase in the minimum wage puts on small business owners. I have evaluated it very carefully, and think I fully appreciate its effects.

Mr. President, I say to those small business owners in my State who have been strong supporters of mine, it is time now to increase this minimum wage. It is the right thing to do. It is the fair thing to do. I know it is going to mean difficulty for some. I regret that. But I also know there are literally thousands of people in my State who are dependent on this minimum wage to provide for their families' incomes.

Today, that family income, for those who are on the minimum wage, is $8,800 a year. I defy anyone to explain to me how you live on $8,800 a year, even with a very small family, even if it is a single person—$8,800 a year.

To offset the effect on small businesses, we have included many provisions to help small businesses. I am strongly supportive of those provisions. The key provision increases the amount of investment small businesses can expense from the current $17,500 per year to $25,000 per year. That is a tax savings of up to $2,900 a year when it is fully phased in.

Mr. President, these sound like modest amounts. They are modest amounts, but when you talk about the very small businesses in my State, they make a difference. It will be a tremendous help to thousands of small businesses and farmers in North Dakota.

In addition, the legislation contains a series of provisions reforming subchapter S corporations. Again, my State has hundreds and hundreds of subchapter S corporations. My wife, when she was in the private sector, had a subchapter S corporation. I am very familiar with the operations of those businesses. These changes are long overdue.

I think the business community is going to welcome a key provision that increases the number of allowable stockholders from 35 to 75 and allows S corporations to have subsidiaries.

These and other changes will allow S corporations to grow and invest, creating jobs and a better future for literally millions of Americans.

For working families, the most important changes in the bill provide for simplified pension plans for small businesses. Again, not only will the employees be the beneficiaries, the owners of these businesses will be the beneficiaries. Anybody who has gone through the paperwork required of pension plans for small businesses knows what I am talking about. The rules as currently constituted are a nightmare for small business owners. These provisions are going to improve that circumstance dramatically.

Mr. President, I again salute the ranking member of the Finance Committee, the senior Senator from New York, for the outstanding effort that was made in the Finance Committee to improve these provisions.

The savings incentive match plan for employees [SIMPLE] reduces compliance and reporting requirements for small businesses with 100 or fewer employees. Businesses will be able to offer either IRA's or 401(k) plans.

Mr. President, for families in which one spouse decides to stay at home to care for children, this bill allows for a full IRA contribution of up to $2,000. This will remove the penalty that is in the current code with respect to spouses who are at home.

In this legislation, the Congress recognizes the work of raising children to be productive members of society is just as important—many of us believe more important—than paid work. In fact, it is the most important job of any in our society.

These are dramatic improvements to current law that will allow millions of Americans to provide for their retirement. In doing so, the savings generated will help provide for the investment needed for economic growth and prosperity.

The Senate Finance Committee also provided for the extension of a number of important tax incentives. Specifically, the targeted jobs tax credit is extended and renamed the ''work opportunity tax credit.'' This tax credit provides incentives for businesses to hire difficult-to-place workers.

Second, the research and experimentation tax credit and the orphan drug tax credit are extended. These assure that the private sector is encouraged to develop new technologies and new drugs.

For my State and many others with lignite and low-rank coals, this legislation extends a tax credit incentive to produce and market alternative, environmentally friendly energy products. It will help high-technology energy businesses find investors who are willing to build multimillion dollar plants using new technologies to bring these alternative fuels to market.

In closing, I wish to raise two issues. First, these tax benefits must be paid for. Unfortunately, one of the major sources of the funding is the extension of the airline ticket tax. This tax made sense when airline ticket prices were regulated. Under regulation, prices in small markets served by one or two airlines were basically the same as prices in large, heavily traveled, highly competitive markets. That is no longer true. Deregulation brought higher ticket prices to many rural states and smaller cities. Compounding that inequity, the 10-percent tax places a larger burden for supporting the Federal Aviation Administration on small markets.

That is simply unfair. The airline ticket tax needs a major overhaul. The burden of paying for the FAA should not fall disproportionately on small markets. While this extension of the ticket tax will undoubtedly pass because it is attached to a bill that has so many positive benefits, we need to get about the business of reform before any additional extensions are made. Rural States like North and South Dakota, Montana, and Nebraska as well as small cities in every State will benefit from reform.

We must also begin to develop new approaches to help stabilize the rural economy. Senator HATCH, Senator HARKIN and others have drafted legislation to encourage the development of farmer-owned food-processing cooperatives. While the prices of raw commodities fluctuate wildly from year-to-year depending on the weather, processed-food prices are far more stable. Farmers need to be able to process some of their own production for the market in order to stabilize their incomes. Farmers can do that through farmer-owned cooperatives. I applaud the efforts of Senators HATCH and HARKIN and others. I hope that their legislation can be added to this bill in conference as a way to help bring some economic stability to the highly volatile farm sector.

This small business legislation may be the most important piece of legislation Congress addresses this year. So far, this legislation has enjoyed bipartisan support. I recommend its passage without amendments. That would kill any chance of the legislation becoming law.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I yield 4 minutes of the leader's time to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President, and I thank the Senator from Kansas for her leadership on this very important issue.

Mr. President, I want to speak specifically about the homemaker IRA part of this bill. The homemaker IRA was put forward 3 years ago by myself and Senator MIKULSKI. It now has 62 cosponsors. This is a matter of simple fairness and equity. I cannot believe that we are standing here today talking about this issue, because if you work outside the home, you can set aside $2,000 a year which accrues tax free for your retirement security. But if you are a homemaker working at home, raising your children, contributing to this country and its stability, you are allowed to set aside $250 a year.

If we can pass the homemaker IRA and allow the homemakers of this country to be equal in their ability to contribute to their retirement security for a one-income-earner couple, the difference will be $188,554 for a 30-year accumulation at $2,000 a year versus $335,000, a difference of $150,000, roughly. That is the difference in retirement security that we can make today if we can pass this very important bill.

The homemaker IRA had also been passed in the Balanced Budget Act last year. It was included. It was vetoed by the President. This is a bill I hope we will be able to see signed by the President. It is very important for the many small business advantages, as well as the homemaker advantages in retirement security. It is very important that we send the bill to the President and that he sign it.

This is a big bill. It is a bill that has a lot in it. It has the minimum wage, we have the Bond amendment, and we have the Kennedy amendment. I am very concerned about the potential of adopting the Kennedy amendment, which is a retroactive minimum wage increase and the fact that that could kill the homemaker IRA bill, because I cannot vote for a retroactive increase in wages that someone who is now in the middle of the summer, who might have an inn or a restaurant and has set prices according to what the wage scale is to all of a sudden wake up and find that the costs are 20-percent higher.

I cannot vote for that. I think it is wrong. So I hope that we will be able to pass this bill in a responsible way with some exceptions for small business to give them the ability to continue to compete because they do not have the advantages of the efficiencies of a large business.

I hope that we will be able to pass the Bond amendment which will have a minimum wage increase but one that can be provided and planned for, one that will have some small business exemptions so that they will still be able to compete.

I hope we can put together a package that will be signed by the President that will be bipartisan, that will have the Bond amendment protections of our small business people as we are also protecting the homemakers and the people who are not now allowed to set aside $2,000 a year for their retirement security but could if they worked outside the home.

I commend Senator KASSEBAUM and Senator MIKULSKI who have been working on homemaker IRA's for 3 years and the many cosponsors that we have for that bill. I hope that we can put together a bill that will not kill the small businesses of our country, and at the same time that we can help the homemakers who are contributing to the stability of our country every day and do not have the same advantages of retirement security that those who work outside the home do. Thank you, Mr. President.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I commend Senator HUTCHISON and Senator MIKULSKI for the leadership they have provided on the homemaker IRA's. I am pleased to have been a cosponsor, along with a number of others. I think it is a very beneficial aspect of the Finance Committee legislation that is before us. Senator HUTCHISON and Senator MIKULSKI have fought some valiant battles to bring this to the public's attention, particularly to the attention of the Congress.

I now will yield the remaining time on the bill to the senior Senator from Missouri, Mr. BOND.

The PRESIDING OFFICER. The senior Senator from Missouri is recognized.

Mr. BOND. I thank the Chair. Might I inquire how much time is available?

The PRESIDING OFFICER. There are 13 minutes 35 seconds remaining.

Mr. BOND. I thank the Chair.

Mrs. KASSEBAUM. Mr. President, I say to my colleague, there are a few minutes more of leader's time if the Senator from Missouri feels he needs a few extra minutes.

Mr. BOND. I thank the distinguished Chair of the Labor Committee.

Mr. President, I rise today to talk about the provisions in my amendment and to give some background to my colleagues on why this amendment is important. I think by now everybody knows it would allow small businesses, the smallest of the small, grossing less than $500,000, the opportunity to continue to pay the minimum wage at $4.25. Businesses grossing above $500,000 would begin paying $4.75 on January 1, 1997, and $5.15 on January 1, 1998.

Without this provision, this would be a retroactive minimum wage increase. As the Senator from Texas has already pointed out, it means that businesses who have laid out their plans, issued price lists, or bid on contracts will find that somebody is going around and

reaching into their pockets and pulling out money that might not be there. Without the delayed effective date, it is possible that small businesses or a business of any size might find themselves working under existing arrangements, contracts, price lists, for a loss if we do the unheard of step of imposing a retroactive minimum wage. That alone, I think, mandates the passage of this amendment.

In addition, we provide a training wage. A training wage is important not only to get teenagers and young people into work, but to get people coming off of welfare into a job, getting them started in the habits that make a job a productive commitment and teach the skills that are needed to hold a job.

The most important part of this amendment, however, is the small business exemption. Why do we set out the exemption for the smallest of the small businesses? Mr. President, as chairman of the Small Business Committee, I have had the opportunity to talk with and, most importantly, to listen to many small businesses around this country.

It is obvious to me that my colleagues, who are talking about how it is no problem for small businesses to have a 20-percent increase in what they pay minimum wage workers, have not been listening to the small businesses. They do not know what burdens they are under. These people who are getting started, they have an idea. They are willing to take a risk. They are willing to take it all on their own shoulders. They may work out of their house. They put their savings into their ideas. Most of them work far more than a 40-hour work week. They are just getting started—they are just getting started. If they become successful, like a Microsoft, as soon as they hit $500,000 annual gross revenue, then the minimum wage goes up to the full amount provided in this bill.

Who does this affect? Well, Mr. President, among the people it affects are the National Association of Women Business Owners, NAWBO. This business organization has pointed out that between 1987 and 1996 the growth of women-owned firms continued to outpace the overall growth of business by nearly 2 to 1 and revenues generated by women-owned enterprises by more than triple. Almost 8 million women-owned businesses exist in the United States, and many of those, as we have heard in testimony before our committee, are very small businesses just getting started. If they are getting started, if they are making a success, we do not want to penalize them and their workers by imposing on those smallest of the small businesses a burden that they cannot handle.

These are Main Street businesses, mom and pop, and in many instances a mom operation, working out of their garage, working out of their basement, with 3 to 4 to 5 to 10 employees. This kind of increase in the minimum wage is a 20-percent increase in their payroll costs for those minimum wage workers. That is a real problem. That is why the Administrator of the Small Business Administration under President Clinton, Phil Lader, back on March 2, 1995, wrote to Secretary Reich, the Secretary of Labor, saying, ''On balance, however, I believe that a tiered system''—a lower minimum wage for the smallest businesses— ''would serve two public policy objectives: promoting small businesses and preserving jobs.''

It is obvious that since then the ear to small business has lost out in this administration. Organized labor and the Secretary of ''organized'' Labor have had their way. The Small Business Administration is now saying they no longer support that. But when he was speaking as a person who listens to small business, he said very clearly we need a two-tiered system.

President Clinton has announced, as most of you have heard, that exempting the smallest of the small businesses is a poison pill. I frankly think that shows how little he understands how tight margins these smallest of the small businesses work on. He has promised to veto the legislation for that and a host of other provisions. I have to say that I am very surprised and disappointed about the President's characterization because the small business exemption has traditionally had broad bipartisan support in this body.

Special minimum wage provisions for small businesses are not a new concept. The Fair Labor Standards Act has contained small business exemptions for well over 30 years. When the minimum wage was increased in 1989, Congress made several changes designed to expand small business protections. Congress eliminated the exemption from minimum wage and overtime provisions for retail and service establishments grossing under $362,500 and replaced it with a $500,000 threshold for all types of businesses.

Unfortunately, the 1989 amendments did not provide a true exemption. People did not realize at the time they did not provide the exemption and actually expanded coverage of small businesses because Congress failed to amend the portion of the minimum wage provision that covered individual employees. As a result, all employees engaged in commerce are covered by the minimum wage provision regardless of the revenue of their employers, despite the fact that this Congress, people on both sides of the aisle, thought they were giving the small business exemption.

I was stunned to hear Senator KENNEDY call this amendment cynical, devious, and shameful. What a difference an election year makes, Mr. President. It is obvious to me from reading the numerous floor statements made in 1989 that Congress thought it was protecting small businesses grossing under $500,000 from the Federal minimum wage and overtime provisions.

For example, Senator KENNEDY explained on the Senate floor that the Labor Committee:

> really bent over in our committee to try to consider the impact of the increase of the minimum wage on small business. That is why, when we initially considered the $4.65 minimum wage, we increased the threshold exemption for small business from $362,000 to $500,000 . . . we have been responsive, we believe, to the concerns of the small business community.'

Those are Senator KENNEDY's own words. I ask, was that statement cynical, devious, and shameful? If not, what are the statements today?

A number of other people have come to the floor. I saw my good friend from North Dakota speak just a few moments ago on the minimum wage. April 11, 1989, he said on the floor,

> The expanded enterprise test will do much to blunt the effect of increasing the minimum wage on small businesses. It is something the administration rightly sought, and I am glad it has been included in both the committee-reported bill and the compromise.

Senator BINGAMAN, during the 1989 minimum wage debates, on November 7, 1989:

> This legislation also includes an increase in the exemption for small businesses from $362,500 to $500,000. This increase helps alleviate some of the concerns expressed by small businesses throughout the Nation.

Mr. President, those concerns are still there, and even more so, particularly when small business found that the 1989 amendments were not responsive to the concerns of small business because what was billed as a change exempting more businesses, actually resulted in broader coverage, since the businesses grossing under $362,500 lost their exemption.

Mr. President, this amendment is more modest than what Congress intended in 1989 because no small business with employees engaged in commerce would be completely exempted from the Federal minimum wage and overtime provisions would not be impacted.

My colleague from Arkansas and the ranking member of the Small Business Committee, Senator BUMPERS, introduced in 1991 a bill that would have corrected the problems caused by the 1989 amendments. If enacted, the Bumpers legislation would have provided an exemption from minimum wage and overtime provisions for retail and service establishments grossing under $362,500. All other small businesses grossing under $500,000 would have been exempted from the 1989 increase. In essence, a three-tiered system, no minimum wage below $362,500, the existing minimum wage up to $500,000, and the increase above. That bill had 48 cosponsors, 26 Republicans and 22 Democrats—Twelve of those Democrats are still in the Senate. I call on them to support a concept less far reaching than what they introduced and sponsored as a bill in 1989.

When Senator BUMPERS introduced his bill on February 5, 1991, he said,

> The clear intention was to protect the jobs of those who work in the smallest companies from the backlash of a higher Federal wage. However, the small business exemption has

inadvertently been rendered useless because of a subsequent conforming amendment * * *

Later on he says,

We have, without intending to do so, given small businesses an exemption which is meaningless and which has added to their problems.

Congressional Quarterly, doing a story on June 8, 1996, quoted Senator BUMPERS as saying,

I've been a small businessman with less than $500,000 in sales and I know this thing could be pretty detrimental.

Senator KERREY, reacting to a statement that Democrats in the House said the proposal would lead to the creation of a new class of exploited workers said, ''If they were good Democrats, they were,'' referring to demagoging the issue.

Senator PRYOR, on February 5, speaking in support of the Bumpers bill said,

While these rates—talking then of a minimum wage increase from $3.80 to $4.25—While these rates may not seem high, to a mom and pop enterprise operating on a razor thin profit margin, it could be the final wave that takes them under.

This seemingly innocuous omission in wording has in effect precluded almost all small businesses from qualifying for the exemption Congress obviously intended. If any of my colleagues have any doubt about congressional intent, all they have to do is go back and read the RECORD during the debate. Both proponents and opponents laud the small business exemption.

Now, Mr. President, my amendment does not go as far as the proposal made by Senator BUMPERS in 1991. Unlike the Bumpers amendment, there is no complete exemption from any business from the Federal minimum wage. The amendment does not affect the FLSA overtime provisions. The amendment simply maintains the status quo for America's small business by allowing them to continue to pay $4.25.

Mr. President, I see I am probably approaching the end of my time, and I ask for 5 minutes of the leader's time.

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

Mr. BOND. Mr. President, what we have today is an opportunity to correct this mistake made in 1989 by enacting legislation that reflects both Congress intent in 1989 and the Bumpers legislation that had such broad bipartisan support in 1991. This amendment does not go as far as what was intended in 1989 by a Democrat Congress and a Republican President and supported in 1991 by a bipartisan group of Senators. Twelve of the twenty-two Democrats who cosponsored Senator BUMPERS' bill in 1991 are still in the Senate. I call on them today to maintain their earlier position so we can pass this amendment that is so important to America's small business.

Let me focus just a minute on a couple of things that had been stated in the media that this amendment does and does not do. Some statements have been made that the amendment provides a complete exemption from any minimum wage. I have stated that is simply not true. For those exempted, it keeps the minimum wage at $4.25.

President Clinton talked about the amendment causing employees of small businesses to be ineligible for an increase in their wages and locked in to the current minimum wage. Who do we think provides wages in this country? Is it Congress in its largess? No; it is the people who have committed their time, resources, energy, and their capital to providing the best jobs they can and the products and services that the marketplace will take. Anybody who understands a market economy knows that everyone in America is eligible for a raise.

The minimum wage is a floor, not a ceiling, and nothing in our capital system or nothing in my amendment sets an upper limit on how much a worker can earn. The purpose of the small business amendment is, in fact, to make sure that America's workers continue to have the opportunity to enter into the small business work force and earn raises in the future.

I also ought to address the statements that have been made on this floor totally, I think, without justification, that some 10.5 million workers would be covered by this minimum wage exemption. That simply is out of whole cloth. There are 10.5 million workers who are employed by businesses grossing under $500,000, but this amendment does not affect nearly that many. There are 11 States that have higher minimum wages. Those workers would not be affected. It takes it down to 8.8 million. How many of those actually work at minimum wage? We do not have the accurate figures, but the Small Business Administration's advocacy counsel said approximately 10 percent of the workers in small business earn the minimum wage. So we are talking roughly 10 percent of 8 million to 9 million people, or 800,000 to 900,000 people.

Phil Lader, the Administrator of the SBA, agrees with me—has agreed with me in the past before he got his arms twisted—that the small business exemption is a good policy because it impacts a small number of employees while ensuring that firms at the margin will not be forced to cut jobs or not grow. In the letter I cited earlier from Mr. Lader to the Secretary of Labor, he said, ''an exemption for the smallest of small businesses makes sense.'' Mr. Lader went on to state that:

An exemption allowing the minimum wage to stay at its present level for firms would be a way of crediting the smallest employers for costs they incur: (1) by employing young workers in their first jobs; (2) by providing general skills training to workers; (3) by hiring a large fraction of part time, seasonal and contingent workers, and (4) by bearing the cost of turnover associated with minimum wage jobs.

Mr. Lader also pointed out that:

By maintaining the status quo, the smallest of small businesses will be able to continue to provide jobs to the marginally employable, an important public policy goal during a time of near-full employment.

Mr. Lader concludes by saying he believes that:

rather than penalize workers in small firms, maintaining the present minimum wage would enable these small employers to sustain present employment levels without imposing the need to make difficult choices to preserve profitability.

I agree with that position. I think that comes from a good understanding of what small businesses have been saying. I am sorry that he has not been able to maintain that position because the policy of the White House has changed.

If you listen to small businesses, as members of the Small Business Committee have, as I have done, and as the Small Business Administration has done, you will know that small businesses, while they have difficult battles in the marketplace, fear nothing more than the heavy hand of the Federal Government—in this case the mom and pop or the mom operation with 5 and 10 employees getting a 20-percent increase in minimum wage mandated by the Federal Government which could force them to lay off 20 percent of their workers. That is one out of five, two out of 10, four out of 20.

People have called this cruel to say they can be exempt. Mr. President, I think it is far crueler to throw these people out of work by saying to small business that we cannot allow you to continue to pay $4.25 an hour and make a profit on the business that you have undertaken.

Small businesses under 500,000 deserve an exemption. On a bipartisan basis Congress in the past thought they were giving them that exemption. It is time to make good on the promises made by the statements from our distinguished colleagues on the other side of the aisle, as well as this body.

Mr. Lader and I both believe that an exemption for the smallest of small businesses makes sense because it saves jobs. Unlike a corporation that can pass increased labor costs on to the consumer, the small, local grocery store or florist or hardware store doesn't have that option and the owner is who is dealing with a 5-percent profit margin is not taking home much money himself.

Mr. Lader's point about providing jobs to the marginally employable is even more important today than it was 1-year ago when the letter was written. The Department of Labor just announced that unemployment is at a 6-year low. As Federal and State governments try to maintain this level of employment and struggle to reform our present welfare system, it is vital that we be able to rely on small businesses to continue to provide jobs. I think that we should take Mr. Lader's advice and allow these small businesses to remain at the current minimum wage so that two important public policy goals Mr. Lader mentions—promoting small businesses and preserving jobs—can be met.

My amendment also contains several provisions that have already passed the House. The first two provisions were noncontroversial on the House sides and I believe that the same will hold true on this side. First, the amendment clarifies that employees do not have to be paid for time spent driving to and from work in company vehicles. Second, the overtime exemption for computer professionals making over $27.63 per hour is maintained.

My amendment also contains the same tip credit provision that passed the House. Tipped employees would continue to be paid at least $2.13 per hour by their employers and would also earn tips. If the cash wage of $2.13 and the tips did not add up to the Federal minimum wage, then the employer would make up the difference. Thus, tipped employees, like all other employees, would earn at least the Federal minimum wage.

My amendment contains an opportunity wage that would allow employers to pay first-time employees $4.25 for 180 consecutive days. This provision is designed to get unskilled people into the job market where they can develop the good work habits that make advancement possible. My amendment expands on the 90-day time period in the House bill because employers are more likely to hire unskilled workers that they have sufficient time to train. Unlike the House provision, my amendment does not include an age limit because unskilled workers of all ages much be permitted to enter the work force more easily.

As my distinguished colleague, Senator CHAFEE, pointed out on the floor recently, Senators from both sides of the aisle are demanding that people get off of welfare and work and we must provide some incentive to employers for hiring unskilled workers. These people will be working at this first jobs and will be provided with the skills they need to advance and earn more.

Mr. KENNEDY said recently that the ''downsized, laid-off workers in a time of high unemployment'' will be hurt the most by the opportunity wage. I would point again to the figures released recently by the Department of Labor that show that unemployment has fallen to 5.3 percent, the lowest level in 6 years, and that wages are up to $11.82 per hour on average. President Clinton hailed the numbers as showing that ''wages for American workers are finally on the rise again. These figures indicate that the laid-off steelworker and the officeworker with 30 years of experience that Senator KENNEDY spoke of are not going to be earning the opportunity wage. Instead, the opportunity wage is going to allow access to the job market for unskilled workers with little or no job experience, workers who otherwise would not have been hired at all.

My amendment delays the implementation of the minimum wage increase until January 1, 1997. This delay will help small businesses adjust and minimize job loss. This is particularly true for small retailers that hire more workers during the holiday season. A delay is also important for employers that have committed to hiring teenagers for summer jobs. As Federal funding for summer youth job programs dries up, we must support private efforts.

America's small businesses have been extremely successful and have created the vast majority of new jobs in the last decade. If we want this level of growth to continue, and if we want to give America's workers the opportunity to get in on the ground floor of some of today's most profitable businesses, we must protect these businesses from Federal mandates. I urge you to support my amendment so that the opportunities available in America's small businesses continue grow.

UNANIMOUS-CONSENT AGREEMENT

Mr. BOND. Mr. President, I now ask unanimous consent that, notwithstanding the previous order, at 2:15 p.m. today the Democratic leader be permitted to make a statement utilizing his leader time to be followed by the recognition of the majority leader to make closing remarks on H.R. 3448, also using leader time; further, that immediately following those remarks the Senate then proceed to the previously ordered votes with the first vote limited to the standard 15 minutes and all additional stacked votes reduced to 10 minutes in length.

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

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

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate at 12:53 p.m. recessed until the hour of 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

SMALL BUSINESS JOB PROTECTION ACT OF 1996

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous agreement, the minority leader is recognized.

Mr. DASCHLE. Mr. President, I ask unanimous consent to use just 2 minutes of my leader time prior to the vote.

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

Mr. DASCHLE. Mr. President, we are about to cast some very important votes this afternoon. I believe it is fair to say the American people are going to be watching very carefully. These are the ones they understand all too well. Many have not had a raise in 5 years. They have not seen an increase in the minimum wage more than once in the last 15. Many of them now have lost ground.

The question before us is very simple: Should 13 million Americans get a raise? It should not matter where you work or how long you have been working. Anyone who works 40 hours a week should not have to live in poverty.

We have all made our speeches as passionately as we know how about the need to improve our welfare system. There is no better way to get people off welfare than to give them a job that pays something beyond a minimum wage, so that they are not relegated to poverty for the rest of their lives. We have all talked about how pro-family we are. Nothing could be more profamily than to ensure parents have a working wage, that instead of working two or three jobs, they can work one and tend to their children at those times when otherwise they would have to work.

So the choice is very clear. Either we vote for this increase or sentence millions of workers to even more poverty and family troubles than they are experiencing right now.

No one should be confused about the amendments. The Bond amendment guts the minimum wage bill. As the National Retail Federation said, this is the best chance to defeat the minimum wage bill. The Kennedy amendment will strengthen it.

We have a chance to do something positive today. We should do it in a bipartisan way. We have done it before and passed votes on the minimum wage in this Chamber. The House of Representatives did it just 6 weeks ago. We can do it, too, this afternoon. Let us vote to give millions of Americans the raise they deserve.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the majority leader is recognized.

Mr. LOTT. Mr. President, I yield 2 minutes to the distinguished chairman of the Finance Committee.

The PRESIDING OFFICER. The Senator from Delaware.

MODIFICATION OF AMENDMENT NO. 4436

Mr. ROTH. Mr. President, I send to the desk a modification to the managers' amendment that has been cleared by the two managers and the two leaders.

The PRESIDING OFFICER. Under the previous order, the Senator has the right to modify the underlying amendment.

The modification is as follows:

On page 26, between lines 6 and 7, insert:

SEC. 1467. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Paragraph (11) of section 415(b), as added by section 1444(a), is amended—

(1) by inserting ''or a multiemployer plan (as defined in section 414(f)'' after ''section 414(d))'', and

(2) by inserting ''AND MULTIEMPLOYER'' after ''GOVERNMENTAL'' in the heading thereof.

(b) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Subparagraph (I) of section

415(b)(2), as added by section 1444(c), is amended—

(1) by inserting ''or a multiemployer plan (as defined in section 414(f))'' after ''section 414(d))'' in clause (i) thereof,

(2) by inserting ''or multiemployer'' after ''governmental'' in clause (ii) thereof, and

(3) by inserting ''AND MULTIEMPLOYER'' after ''GOVERNMENTAL'' in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1996.

SEC. 1468. PAYMENT OF LUMP-SUM CREDIT FOR FORMER SPOUSES OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in section 8342(c) by striking ''Lump-sum'' and inserting ''Except as provided in section 8345(j), lump-sum'';

(2) in section 8345(j)—

(A) in paragraph (1) by inserting after ''that individual'' the following: '', or be made under section 8342 (d) through (f) to an individual entitled under section 8342(c),''; and

(B) by adding at the end the following:

''(4) Any payment under this subsection to a person bars recovery by any other person.'';

(3) in section 8424(d) by striking ''Lump-sum'' and inserting ''Except as provided in section 8467(a), lump-sum''; and

(4) in section 8467—

(A) in subsection (a) by inserting after ''that individual'' the following: '', or be made under section 8424 (e) through (g) to an individual entitled under section 8424(d),''; and

(B) by adding at the end the following:

''(d) Any payment under this section to a person bars recovery by any other person.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any death occurring after the 90th day after the date of the enactment of this Act.

On page 26, line 7, strike ''1467'' and insert ''1469''.

Mr. ROTH. This modification includes two provisions. First, multiemployer pension plans are exempted from the Tax Code pension benefit limits and, second, employee contributions to the Federal Government retirement funds would be subject to the judgment of a divorce court in the same way annuity and survivor benefits are subject to such orders.

I yield back the remainder of my time.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, it has taken a long time for the Senate to finally come to the point where we are today. It has been delayed for weeks—actually, I guess, months—so I do wish to thank the distinguished Democratic leader for his cooperation in setting up this process that we begin voting on today.

I also especially thank the chairman of the Finance Committee and the ranking member of the Finance Committee. They did a very good job in the committee on the small business relief package. It was passed unanimously, I believe. We now have a leaders'-managers' amendment that will further improve it, and I think that is a very significant part of this legislation. I commend them for the work they have done.

I remind my colleagues today that we need to remember that small businesses play a crucial, in fact, probably the most important, role in the creation of new jobs in this country. More than 75 percent of all new employment opportunities in America occur in small businesses. They account for over 50 percent of all sales and produce 55 percent of our gross domestic product.

In that context, I have always been reluctant to vote for any measure which would restrict the formation and expansion of small business.

It is all too easy for Congress to promise benefits—like the increase of minimum wage—and to look the other way when our legislative mandate destroys jobs instead of creating them, and prevents willing workers from climbing up the opportunity ladder.

That is why I strongly support what was reported out of the Finance Committee with this small business tax relief, and why I also support very aggressively the amendment offered by Senator BOND. If we are going to impose a higher minimum wage and thereby limit job creation and economic opportunity, the least we can do is to offer some support, some buffer for small businesses to be protected from the worst effects of our good intentions.

So the Bond amendment is the responsible thing to do. It is a modest amendment, despite all the rhetoric directed against it. It would exempt from the higher minimum wage those small businesses which gross less than $500,000 a year.

I believe this has had bipartisan support in the past. In fact, President Clinton's own Administrator of the Small Business Administration endorsed this concept as recently as 1995. And not so long ago, Senator BUMPERS proposed an even broader exemption that had the support of 12 Democratic Senators who still serve here today. The Bond amendment also has a training wage. If we do not have a training wage for entry level people, First, they may not get a job or, second, if they have a job they run the risk of losing it. There is something worse than low wages and that is no wages. This helps to address that, providing entry-level training wage assistance.

There are several other very good features in this legislation for small businesses, though, beyond the Bond amendment. It increases to $25,000 the amount small businesses can write off for their purchase of equipment. It makes important changes to the tax rules concerning independent contractors, to reduce IRS harassment of those workers and of the businesses that contract for their services. It also extends several important tax provisions that have expired, including the exclusion from income for employer-provided educational assistance and the tax credit for research and development expenses.

The bill and the managers' amendment contain pension simplification measures that will expand pension coverage and eliminate much of the red-tape that often deters employers from offering pension plans. The bill creates a new form of pension plan for small businesses, rightly called the SIMPLE Act, crafted to address the concerns of the men and women in the small businesses all across this country.

Equally important, finally, after talking about it for years, we are going to allow a full IRA deduction for the spousal IRA. The spouse who works inside the home now can only deduct $200 for her IRA instead of the regular $2,000. We should absolutely do this. At long last, the spouses would be treated the same as others.

There are other good provisions in this legislation. I endorse particularly the small business relief package. I urge my colleagues to support that. I urge my colleagues to vote against the Kennedy amendment.

There is a minimum wage increase in the Bond amendment, and the basic package, which is the House-passed package, has the minimum wage increase in it. When you couple that minimum wage increase with these small business tax reliefs and the small business exemption, then you have a package that really provides increased wages and protection from job loss. I urge my colleagues to vote for the Bond amendment, against the Kennedy amendment, and I yield the floor.

VOTE ON AMENDMENT NO. 4272

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on the Bond amendment, No. 4272. The yeas and nays have not been ordered.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi [Mr. COCHRAN] and the Senator from Maine [Mr. COHEN] are necessarily absent.

I further announce that if present and voting, the Senator from Maine [Mr. COHEN] would vote ''yea.''

The result was announced—yeas 46, nays 52, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—46

Abraham	Frist	Lugar
Ashcroft	Gorton	Mack
Bennett	Gramm	McCain
Bond	Grams	McConnell
Brown	Grassley	Murkowski
Burns	Gregg	Nickles
Chafee	Hatch	Pressler
Coats	Helms	Roth
Coverdell	Hutchison	Santorum
Craig	Inhofe	Shelby
DeWine	Kassebaum	Simpson
Domenici	Kempthorne	Smith
Faircloth	Kyl	
Frahm	Lott	

Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—52

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Conrad
D'Amato
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Wellstone
Wyden

NOT VOTING—2

Cochran
Cohen

The amendment (No. 4272) was rejected.

Mr. MOYNIHAN. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 4435

The VICE PRESIDENT. The question recurs on the Kennedy amendment.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the Kennedy amendment No. 4435. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi [Mr. COCHRAN] and the Senator from Maine [Mr. COHEN] are necessarily absent.

I further announce that, if present and voting, the Senator from Maine [Mr. COHEN] would vote ''nay.''

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 52, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—46

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Conrad
D'Amato
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Harkin
Heflin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Wellstone
Wyden

NAYS—52

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Chafee
Coats
Coverdell
Craig
DeWine
Domenici
Faircloth
Frahm
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Cochran
Cohen

The amendment (No. 4435) was rejected.

Mr. MOYNIHAN. Mr. President, I move to lay that motion on the table.

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 4436, AS MODIFIED

The VICE PRESIDENT. The question is on agreeing to the Roth amendment.

Mr. SIMON. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi [Mr. COCHRAN] and the Senator from Maine [Mr. COHEN] are necessarily absent.

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—96

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Faircloth
Feingold
Feinstein
Ford
Frahm
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone
Wyden

NAYS—2

Byrd
Simon

NOT VOTING—2

Cochran
Cohen

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The VICE PRESIDENT. Under the previous order, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The VICE PRESIDENT. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have not been ordered.

Mr. ROTH. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi [Mr. COCHRAN] and the Senator from Maine [Mr. COHEN] are necessarily absent.

I further announce that, if present and voting, the Senator from Maine [Mr. COHEN] would vote ''yea.''

The result was announced—yeas 74, nays 24, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—74

Abraham
Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Conrad
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Grams
Grassley
Gregg
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Simpson
Snowe
Specter
Stevens
Thompson
Thurmond
Warner
Wellstone
Wyden

NAYS—24

Ashcroft
Bennett
Bond
Brown
Burns
Coats
Coverdell
Craig
Faircloth
Frahm
Gramm
Hatch
Helms
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
Nickles
Smith
Thomas

NOT VOTING—2

Cochran
Cohen

The bill (H.R. 3448), as amended, was passed.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Delaware.

Mr. ROTH. Mr. President, first of all, I want to express my appreciation to

the distinguished senior Senator from New York for contributions he has made in bringing this tax legislation to a successful conclusion. I can say in all honesty, it would not have happened without his wise counsel, his advice and willingness to work across the aisle. I greatly appreciate it.

I also wish to express my appreciation to the many staff people who worked so hard to bring this legislation to the Senate floor. While many of us were back home, perhaps working hard there in local offices, or celebrating our Nation's birthday, we had many, many staff members from Senator MOYNIHAN's office, the staff of the two leaders, as well as mine, dedicating long hours to trying to bring this legislation that we have just voted on to conclusion.

I would like to especially mention Lindy Paull, Frank Polk, Mark Prater, Rosemary Becchi, Sam Olchyk, Doug Fisher, Lori Peterson, Brig Gulya, Tom Roesser, as well as Mark Patterson, Jon Talisman, Patti McClanahan, and Maury Passman for their excellent work.

For the managers' amendment, I would like to express my thanks to Annette Guarisco and Susan Connell, of Senator LOTT's office.

From Senator DASCHLE's office: Larry Stein, Alexandra Deane Thorton, Glenn Ivey, Leslie Kramerich.

Again, I thank Senator MOYNIHAN and his very excellent staff for their help and cooperation.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to reciprocate and thank Mark Patterson and making a doubly reference to Lindy Paull.

This was the first major tax bill that our distinguished chairman has reported out of his committee and to the floor. I think it is a tribute to the way he has handled this matter, and it reflects his career in the Senate, that the bill passed by a 3-to-1 margin, 74 to 24. There will be no discussion of vetoes anywhere else in town. We will now appoint conferees.

I would like to say from our side that we look to the leadership of the chairman in conference. I am sure we will insist on our measures, and I expect to come back wholly pleased and honored by the association and more than pleased with the outcome.

Mr. KENNEDY. Mr. President, the vote earlier on the minimum wage was a resounding victory for the minimum wage, and a convincing repudiation of a cynical attempt to kill the bill. The Senate rose to the occasion to have the minimum wage. President Clinton can sign this bill with pride.

Enough is enough is enough. It has been a long time since Congress acted to make the minimum wage a living wage. Along with Social Security and Medicare, the minimum wage is one of the three most successful social programs ever enacted. In this context we have protected Social Security, we have protected Medicare, and today we are protecting the minimum wage.

Today's vote means that millions of Americans will soon receive the long overdue increase they deserve in the minimum wage. Today's vote means that a solid majority of the Senate has kept the faith with the fundamental principle of the minimum wage. No one who works for a living should have to live in poverty.

Today's vote means that minimum wage workers are no longer the invisible Americans. We see them every day—the child care workers who care for children, the health care aides who care for patients in hospitals, and senior citizens in nursing homes, teachers' aides who labor in the classroom to educate their pupils, and the millions of other Americans who work hard days and long hours to make America work. Their work is indispensable to our country. And today the Senate gave them a helping hand.

The minimum wage has not gone up in 5 years. We all know that the gap between the rich and poor is widening in America. The economy may be doing well. But the benefits are flowing primarily to those at the top.

Corporate downsizing and layoffs may not affect the wealthy, but the vast majority of Americans are being left out and left behind, and those at the bottom of the ladder are being left farther behind.

They need our help, and today they received it.

TEAMWORK FOR EMPLOYEES AND MANAGEMENT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 295, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 295) to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senate is now considering S. 295. Who yields time?

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The senior Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I am going to speak for a moment about the full bill, the Teamwork for Employees and Management Act, which has been called the TEAM Act, and why I think this is an important piece of legislation.

It is important because it improves the quality of life for workers on the job as well as the quality and productivity of American firms competing in the global marketplace. We are in a new era, Mr. President, and because of global competition I think we need to look at new and innovative ways in which we can encourage a cooperative spirit in the workplace. This is why I think this legislation is important and why I hope my colleagues will support this with a strong vote.

The Senate has already spent a considerable period of time debating the TEAM Act. As I stated earlier in that debate, it responds to a series of decisions by the National Labor Relations Board that cast doubt on the legality of employee involvement programs, particularly in nonunion settings.

For instance, just last December, the board invalidated an employee involvement program in my own State of Kansas. A committee of workers and managers at Dillon's stores in Wichita, Newton, and Wellington, KS, met quarterly to discuss workplace issues and minutes of the meetings were then distributed to all employees. Employee representatives served voluntarily on the committee for 1-year terms and were elected by secret ballot.

Over the course of 7 years, the committee discussed such issues as whether the company would begin providing day care services for workers; whether Dillon's stores would begin providing a gym for workers to exercise in; whether better lifting equipment could be used for stocking shelves; whether the no-smoking lounge could be better maintained and a total no-smoking policy be implemented; and whether safety goggles could be provided for bakery employees.

These commonsense suggestions, Mr. President, are precisely the type of contributions that we need to promote. It is the type of discussions regarding the environment that both employees and employers are involved in that I think just make good sense for us today. There is nothing devious about this. This is not an attempt to try to diminish the unions. These are, however, issues that are of importance to every employee, and they are issues which the employers should care about as well.

Supervisors might not be focused on day care or new ways to stock shelves or the need for safety goggles, but these are the issues of concern for workers. Regrettably, the National Labor Relations Board said that discussing these issues in worker management committees violated Federal labor law.

Mr. President, I continue to be surprised by the level of opposition that some Members of the Senate express toward employee involvement. Quite simply, the TEAM Act removes the barriers in Federal labor law that prevent workers and supervisors from meeting in committees to discuss workplace issues.

I thought I might take a moment just to read the language of the TEAM Act, since I think it is very straightforward. The bill states that it shall not be illegal for an employer:

* * * to establish, assist, maintain or participate in any organization or entity of any kind, in which employees participate to address matters of mutual interest (including

issues of quality, productivity and efficiency) and which does not have, claim or seek authority to negotiate or enter into collective bargaining agreements under this Act with the employer or to amend existing collective bargaining agreements between the employer and any labor organization.

This language is clear. It says that Federal labor law will not prevent supervisors and workers from discussing matters of mutual interest. I do not think we need to fear these type of discussions in the workplace. If so, we have already created a hostile environment—one that is full of dissension, potentially, among employees and between employees and employers.

Some opponents of the TEAM Act suggest that workers will be exploited if the TEAM Act becomes law. But I fail to see why these discussions about workplace issues exploit workers.

The law seems to be clear that employers in nonunion companies unilaterally can address workplace issues. For instance, in the Dillon's stores that I mentioned a few moments ago, the company could decide on its own to provide safety goggles, to begin day care or to expand a no-smoking policy, but the management probably did not know these issues were important for workers.

That is not to say employers should not have known that these issues were important, but as we have seen all too often over the years there is a lack of communication that many of us think often takes place between employers and employees. This legislation is simply designed to encourage communication, and to make sure that there is an understanding that they will not be in violation of the National Labor Relations Act.

Under the TEAM Act, workers retain the right at any time to select a union to represent them, and firms must recognize and bargain with the union once workers choose that representation. The TEAM Act is clear that employee teams may not ''have, claim or seek authority to negotiate or enter into collective bargaining agreements.''

This legislation is not a camel's nose under the tent. This is not an effort to have a sham type of union. All these have been accusations that have been made that clearly are not true nor were ever the aim of this legislation.

In the 1930's, employers did create company unions to compete with independent unions that workers chose. The employer would then refuse to bargain with the independent union in favor of the company union.

Significantly, this practice would be patently illegal under the TEAM Act. Once the workers seek the union the employer must recognize the union as the employee representative. Employers may not use teams to bypass an independent union.

I have an amendment to be offered later that will make crystal clear that the TEAM Act does not apply once workers have selected union representation.

I have an additional point that I would like to make regarding employee exploitation. During our hearings in the Labor Committee, we heard from workers who participate in employee teams. I think that all the Senators who heard the Labor and Human Resources Committee hearings were impressed with the workers. They are the ones who enjoy teamwork. They are the ones whose ideas are implemented. They are also the ones whose economic future is at stake.

As Ms. Molly Dalman, a team member from Donnelly Corp. in Michigan testified:

> Our goal is to keep each other informed, to produce a high-quality product in the most efficient manner. This helps us to be competitive in the market * * *. I know my job, what I need to do, and how to do it, better than my team leader or any engineer. Therefore, I need to feel as if I have some control in my work area, and by working in teams, I have that control.

This is part of the hearing record. It exemplifies what many workers have said to us regarding their relationship in the workplace and why they believe this legislation would benefit them.

She concluded:

> I cannot imagine how any company could function without the active participation and support of all employees from all areas working together. Teamwork promotes a better working environment [and] a better company. I cannot envision [my company] without the support of its teams.

Another team member testified that her team dealt with multiskill work design, quality, training, rotation, and overtime guidelines. Not only was the ''product line much better equipped,'' she said, ''to respond quickly to a fast-paced, very sophisticated market,'' but she personally felt a greater degree of job satisfaction and ''just a sense of ownership.''

I think, Mr. President, that her comments exemplify what I feel. This is an important bill—it is one that should not be in any way viewed as something nefarious, something that we are trying to do to undermine the unions. It is designed to address the workplace as it exists today and give the employees a sense of being involved.

These workers are not being exploited. Instead, the TEAM Act gives workers the tools they need today, to do an ever better job. We need to harness our human resources, not to silence them.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. Mr. President, I suggest the absence of a quorum and that the time be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Mr. President, my understanding is that the unanimous consent agreement allows for the introduction of an amendment with a 1-hour team agreement, 30 minutes on each side, on behalf of the minority leader or his designee.

AMENDMENT NO. 4437

(Purpose: To provide for a substitute amendment)

Mr. DORGAN. Mr. President, I call up an amendment under that unanimous consent request and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 4437.

Mr. DORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

> Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Teamwork for Employees and Management Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the escalating demands of global competition have compelled an increasing number of American employers to make dramatic changes in workplace and employer-employee relationships;

(2) these changes involve an enhanced role for the employee in workplace decision-making, often referred to as ''employee involvement'', which has taken many forms, including self-managed work teams, quality-of-worklife, quality circles, and joint labor-management committees;

(3) employee involvement structures, which operate successfully in both unionized and non-unionized settings, have been established by over 80 percent of the largest employers of the United States and exist in an estimated 30,000 workplaces;

(4) in addition to enhancing the productivity and competitiveness of American businesses, employee involvement structures have had a positive impact on the lives of those employees, better enabling them to reach their potential in their working lives;

(5) recognizing that foreign competitors have successfully utilized employee involvement techniques, Congress has consistently joined business, labor, and academic leaders in encouraging and recognizing successful employee involvement structures in the workplace through such incentives as the Malcolm Baldrige National Quality Award;

(6) employers who have instituted legitimate employee involvement structures have not done so to interfere with the collective bargaining rights guaranteed by the labor laws, as was the case in the 1930s when employers established deceptive sham ''company unions'' to avoid unionization; and

(7) the prohibition of the National Labor Relations Act against employer domination or interference with the formation or administration of a labor organization has produced uncertainty and apprehension among employers regarding the continued development of employee involvement structures.

(b) PURPOSES.—It is the purpose of this Act to—

(1) protect legitimate employee involvement structures against governmental interference;

(2) preserve existing protections against deceptive, coercive employer practices; and

(3) permit legitimate employee involvement structures where workers may discuss issues involving terms and conditions of employment, to continue to evolve and proliferate.

SEC. 3. LABOR PRACTICES.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end thereof the following new subsection:

''(h)(1) The following provisions shall apply with respect to any employees who are not represented by an exclusive representative pursuant to section 9(a) or 8(f):

''(A) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to meet with the employees as a group, or to meet with each of the employees individually, to share information, to brainstorm, or receive suggestions or opinions from individual employees, with respect to matters of mutual interest, including matters relating to working conditions.

''(B) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to assign employees to work units and to hold regular meetings of the employees assigned to a work unit to discuss matters relating to the work responsibilities of the unit. The meetings may, on occasion, include discussions with respect to the conditions of work of the employees assigned to the unit.

''(C) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to establish a committee composed of employees of the employer to make recommendations or determinations on ways of improving the quality of, or method of producing and distributing, the employer's product or service and to hold regular meetings of the committee to discuss matters relating to the committee. The meetings may, on occasion, include discussions with respect to any directly related issues concerning conditions of work of the employees.

''(2) The provisions of paragraph (1) shall not apply if—

''(A) a labor organization is the representative of the employees as provided in section 9(a);

''(B) the employer creates or alters the work unit or committee during any organizational activity among the employer's employees or discourages employees from exercising the rights of the employees under section 7;

''(C) the employer interferes with, restrains, or coerces any employee because of the employee's participation in or refusal to participate in discussions with respect to conditions of work, which otherwise would be permitted by subparagraphs (A) through (C) of paragraph (1); or

''(D) an employer establishes or maintains a group, unit, or committee authorized by subparagraph (A), (B), or (C) of paragraph (1) that discusses conditions of work of employees who are represented under section 9 without first engaging in the collective bargaining required by this Act.

''(3) An employee who participates in a group, unit, or committee described in subparagraph (A), (B), or (C) of paragraph (1) shall not be considered to be a supervisor or manager because of the participation of the employee in the group, unit, or committee.''.

Mr. DORGAN. Mr. President, we are now discussing something called the TEAM Act, which to a lot of Americans will not mean very much. It is an acronym that talks about teamwork.

We have gone through a kind of interesting and difficult time in our country in recent years. We have seen a transition to a global economy, a period during which it has been, at least for some companies, difficult to deal with new rules of competition. These companies have had to deal with global competition, have had to experience the reality of competing with companies that produce elsewhere in the world and which have production facilities that are not required to meet the same rules or the same obligations as we are required to meet in this country.

They do not always have to worry about child labor laws. They do not have to worry so much about antipollution concerns, do not have to worry about things like minimum wages. The result has been that American enterprises find themselves competing with, in many cases, enterprises in other parts of the world that hire 12-year-old kids and pay them 24 cents an hour, throw chemicals into the water, pollution into the air, and produce a product and ship it to Pittsburgh or ship it to Denver or Bismarck or Topeka and sell it and compete against local businesses while they do that.

This has been an increasingly challenging time for American businesses. There are those who say—and I believe they are correct, especially the new breed of American entrepreneur—that the only way that we can meet this difficult international competition and do so successfully and do so in a way that allows us to win in international economic competition, is if we have more teamwork and if we have more cooperation between those who run American businesses and those who work for those businesses. I have no disagreement about that at all.

I think we have a requirement in this country, with the new global economy, to have educated, dedicated, motivated workers who come to the workplace and say, we want to be part of a team, we want to succeed, we want to produce good products and sell them at a good price and earn good wages, and we want the company to earn good money.

That is part of what this is all about. There is not a disagreement on the floor of the Senate about the value of teamwork. The disagreement exists about precisely how we would change the law to accommodate these concerns.

Most companies in this country already have work units, teams, employee groups that are established to talk about what those companies are doing, what their goals are, what their day is like, how to be more efficient. Most of the largest employers in America already have, in both unionized and nonunionized settings, employee involvement structures of one kind or another. That exists in some 30,000 workplaces in this country.

So it is not a case where this does not already exist. In fact, if you take a look at some of the case studies of some of the very successful companies in our country, you will see that they have established workplace teams in a very successful way. They have involved employees in helping make some of the decisions on how to produce most effectively and efficiently. So there is not going to be a disagreement on the floor of the Senate about whether teamwork is valuable. Of course it is.

The findings and purposes to the amendment that I have offered to the legislation being considered on the floor talks about the escalating demands of global competition. It requires an increasing number of employers to make changes in the workplace and changes in employee-employer relationships. I talk about the changes that involve an enhanced role for the employee in workplace decisionmaking. It is often referred to as employee involvement, which has taken a lot of different forms including self-managed work teams, quality of work teams, quality circles, joint labor-management committees, and many more. It is being done all across this country.

In addition to enhancing the productivity and the competitiveness of American businesses, these kinds of structures have had a positive impact on the lives of many employees, better enabling them to reach their potential as employees. I also point out that foreign competitors have successfully utilized employee involvement techniques. Congress has encouraged the same thing, as well.

However, having said all that, and wanting to encourage teamwork, let me emphasize that we want to encourage teamwork in the right way. We do not want someone to come to the floor of the Senate, or some group to come to the floor of the Senate and address a problem in a manner that causes more problems and more difficulties. That is what we fear the underlying bill does.

The amendment I am offering is very straightforward. There are some who say, and I think they are correct, that NLRB decisions have created uncertainty about the conditions under which certain employee involvement teams or organizations can be permitted or will be permitted, uncertainty about where the lines are and about what employers can do. To the extent that is correct, and I believe it is, there is that uncertainty that does exist. My amendment attempts to clarify those areas that are now causing such uncertainty, but it does so in a way that does not cause injury in a range of other areas.

My amendment creates certain safe harbors for employers who establish work units, quality circles and other employer-employee committees or teams, provided that working conditions are discussed only on an occasional basis incidental to the purpose of the committee. In other words, we do not want to have a circumstance where some employer-dominated committee—some employer-dominated committee—selected by the employer

for a specific purpose, runs off and gets involved in a whole range of discussions about matters that are more appropriately a part of collective bargaining or matters outside the purview of what is allowed in the NLRB.

In the legislation I have offered, we provide specific guidance in these areas, and I think we do so in a way that is appropriate. Page 4 of the amendment provides:

(A) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to meet with the employees as a group, or to meet with each of the employees individually, to share information, to brainstorm, to receive suggestions or opinions from individual employees, with respect to matters of mutual interest, including matters relating to working conditions.

(B) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to assign employees to work units and to hold regular meetings of employees assigned to a work unit to discuss matters relating to the work responsibilities of the unit. The meetings may, on occasion, include discussions with respect to the conditions of work of the employees assigned to the unit.

(C) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to establish a committee composed of employees of the employer to make recommendations or determinations on ways of improving the quality of, or method of producing and distributing, the employer's product or service and to hold regular meetings of the committee to discuss matters relating to the committee. The meetings may, on occasion, include discussions with respect to any directly related issues concerning conditions of work of the employees.

When the U.S. House, the other body, debated this issue, there was an amendment offered by Congressman SAWYER that received, I believe, 204 votes. It did not prevail, but it was a very close vote and received some bipartisan support. The amendment I offer today is very similar to the Sawyer amendment that was offered in the House—identical with respect to the provisions, similar with respect to the language that establishes those provisions.

This is not a new subject. It was substantially debated in the House of Representatives. My colleagues who followed that debate will recognize that what I am attempting to do here in the Senate is exactly what Congressman SAWYER did in the House. I changed some of the language in the amendment but did not change the substance of the amendment itself.

Again, let me say that I believe cooperation in the workplace has merit. I believe it enhances our country's capability. It enhances the opportunity of businesses to be more productive, to be more efficient. It is helpful to both the employer and the employee. It will not, under any condition, be helpful to harmony in the workplace, to efficiency, or to improving this country's competitiveness, to do something that changes labor law under the guise of the TEAM Act, that will cause more uncertainty and more strife with respect to organized workers in this country.

That will happen if we enact legislation that infringes in areas that are now of the province of what normally would be collectively bargaining. We do not want to retreat to a circumstance where employers pick their team and say, ''By the way, we now have a cooperative team of employees.'' It so happened that Uncle Joe, the person who runs this place, picked the four of them, handpicked the four, and now these four presumably speak for all other employees. Well, that moves directly toward the establishment of management unions, which, in my judgment, is and should be a violation of labor law. We do not want to pass a TEAM Act that does that. We do want to pass a TEAM Act that fosters, enhances, and encourages cooperation in the workplace.

My amendment, I believe, does that. I hope the Senate would view the amendment in a positive way. We will have more discussion on it, but other Members on my side would like to use some time. With that, I yield the floor.

Mrs. KASSEBAUM. Mr. President, I will briefly respond to the Senator from North Dakota, because much of what he said echoes my earlier comments. We are both addressing the importance of cooperation in the workplace, and both of us are acknowledging that there is a problem with the law at this point, and there needs to be a clarification regarding the National Labor Relations Act.

For a long time, it has been argued that there is no problem with the law—that teams could continue without running afoul of the National Labor Relations Act. I think the Senator from North Dakota acknowledges that there needs to be some clarification. However, I am not sure from what was said—and I have not had a chance to read the language of the amendment that has been introduced because it is different than we had thought it was going to be—about what sort of specific guidance he was laying out in his amendment and what he believes are the problems in the TEAM Act itself that cause the disturbance that he believes it would in the workplace.

These are things that I hope, Mr. President, we can explore, as we have a chance to address some questions regarding the amendment that was put down by the Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield 10 minutes to the Senator from Illinois, Senator SIMON.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I thank my colleague. I rise in support of the Dorgan amendment. I think it makes sense. It provides balance. It makes it clear that if the Kempthorne Industries, for example, decide they want to have a committee to look at the question of plant safety or plan a picnic for the staff, or anything else, they can do that.

But the Dorgan amendment also says if you are going to get into a question of wages and hours, and the traditional benefits, the traditional labor-management things, that should be left up to the conventional process. You should not have employers appointing a committee of employees. The employees, when you get into labor-management issues like wages and hours and so forth, should be left to a committee picked by the employees. I think that makes sense. I think it contains balance.

I add that I think balance is the one word we need in labor-management relations in this country today. I was interested a while back in picking up the New York Times and seeing where George Shultz, whom we think of primarily as the former Secretary of State, and noting that George Shultz also was the Secretary of Labor at one point under a Republican administration, saying our laws have gone out of balance in terms of not being balanced enough in the direction of encouraging labor organizations and the result is going to be a loss of productivity in our country. I think that point is an extremely important point.

I have introduced a series of seven bills that I think also provide a little balance. For example, in this whole area of labor-management relations, if you have a pattern in practice of violating the Labor Relations Act, you can still get a Federal contract; while, if you have a pattern in practice of violating civil rights laws, you cannot get a Federal contract. I think the example of the civil rights laws is what we ought to follow in the labor laws also. I do not know why we should award companies that have a pattern and practice of violating labor laws with Federal contracts. I mention this because I think there we need balance. I think the Dorgan amendment provides balance.

I think what we want is to say to an employer, if the Kempthorne Corporation, or the Kassebaum Corporation, or the Dorgan Corporation, or the Simon Corporation, if as an employer I want to appoint a committee to look at plant safety, or lighting in the plant, or planning an annual banquet, that is a fine thing. I do not think plant management ought to have the ability to say this is a committee of employees that is going to negotiate with me in terms of wages and hours. I think the National Labor Relations Act should be left as it is on that issue.

So I am going to strongly support the Dorgan amendment. I think it is a move in the right direction. I hope that we can get a majority to favor it.

One of the things that has happened, Mr. President, over the years in my 22 years here is that we have become excessively partisan. I have said this before on the floor. I think an amendment like the Dorgan amendment is one that frankly Republicans and Democrats alike ought to be supporting. I think it makes eminent good sense.

Mr. President, I am about at the end of my time. I see two of my colleagues standing. I yield the floor at this point.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, if I may respond for a moment, just to assure the Senator from Illinois that I wish I could support the amendment of the Senator from North Dakota. I think there is still some difficulty with it that we need to consider, however. But I want to assure you that the TEAM Act does nothing to change the ability for collective bargaining on wages and hours. This specifically is stated—that it in no way wants to reinterpret the National Labor Relations Act, and it is not an infringement on that. It is a clarification where actually the chairman said there needs to be a clarification regarding section 882. On the other hand, I want to make clear that he does not support the TEAM Act. But I would like to so ask some questions.

Mr. SIMON. Mr. President, if my colleague will yield.

Mrs. KASSEBAUM. I am happy to yield.

Mr. SIMON. Just to respond by saying when you say it needs clarification, the reality is we have had clarification. For example, California has had 29,000-and-some cases brought before the NLRB. They have had two cases before the NLRB which said you have a problem here in creating a company union through management. And then they did not fine anyone. They just sent it back to them and said restructure it. The State of Illinois with 12 million people—I do not know how many cases; I forget; just one case nationally. We have only had half a dozen. I really do not think there needs to be the clarification that my friend and colleague from Kansas suggests is needed.

Mrs. KASSEBAUM. Mr. President, I can appreciate that. But just that one case which came up, as I gave an illustration of—the Dillon stores in Kansas—the grocery stores, and a ruling then that had the chilling effect and has caused a number of nonunion settings of employees and employers to be very uncertain. And actually that is what I think the Senator from North Dakota was saying. There was some uncertainty, and in trying to address with specificity I think it becomes too specific.

If I just may mention, at least as I understand it, that there are three categories that are addressed in the amendment of Senator DORGAN. I think again it goes back to a rigidity and a lack of flexibility that I think is important. I do not think you can have three categories and three sizes that would fit all. I would like to see if I am correct in this.

One would be an employee in a brainstorming discussion group that can only meet for a short duration of time to discuss matters of mutual interest. If workers and supervisors want to discuss important workplace issues on a regular basis, that would not be permitted under this category. When important workplace issues are raised, managers would have to tell workers that further discussions would be illegal. If that is, indeed, the intent of the language in the amendment, I think again specificity that does not allow for a flexibility that we were trying to encourage with employer-employee discussions.

Also, there would be employee work teams that were established for a duration that could discuss quality and productivity issues. But discussions on workplace issues like health and safety, or vacations, or other issues, child care and so forth, could occur only sporadically. When work teams have exhausted their quota of discussion time on important issues like safety, then managers would have to terminate further discussion, or face violating Federal law.

I do not want to add words that are not theirs. But it seems to me that these are providing conditions that even further confuse what could or could not be done.

Then the third is what I think are called employee committees which may discuss again workplace issues like safety and no smoking policies as often is desired. However, the employees chosen by secret ballot election under NLRB procedures have a new entitlement—the assistance of outside experts to address issues before the committee. I understand that was taken out. But I do not know what the third employee committee does. But it is a committee structure that I think in the specificity lends itself to even further concern about whether there would be a clear understanding of what could or could not be done.

So again, I think it is very important for us to explore this and with a clear understanding of whether we have actually complicated the procedure or have enhanced clarification.

Mr. COVERDELL addressed the Chair.

Mrs. KASSEBAUM. I yield the Senator from Georgia 10 minutes.

Mr. COVERDELL. That will be fine. I appreciate the yielding of time from the Senator from Kansas.

Mr. President, I rise in support of the amendment of the Senator from Kansas and the Senator from Maine, Ms. Snowe, called the TEAM Act.

I might, in my opening statement here, make the point that the workers themselves from my State are those who are contacting our office in support. It is the laborers, it is the working men and women of my State who have created a steady flow through our office in support of what the Senator from Kansas is endeavoring to do.

A recent example. There is a company in Lawrenceville, GA, which is just northeast of Atlanta. It reduced its manufacturing costs within its plant $6 million through the efforts of teamwork. The team consisted of nine employees, people from the assembly line to plant managers. They met for 6 months. They brought in experts throughout the company to give advice. The end result? A savings of nearly $6 million from these workers.

The problem with this is that without the amendment being offered by the Senator from Kansas, this company and people engaged in this activity are at risk from the National Labor Relations Board. They could be held to be in violation of the law and regulations. So the effort by the Senator from Kansas is to create legislation that does enormous good in the workplace because it allows teams like this one I have just described to assemble and yet not be at risk. Great good could occur throughout our country.

I want to read a press release I just received the other day from the Employment Policy Foundation. It reads:

> Lost in the current political controversy about increasing the minimum wage and passing the TEAM Act is the fact that only the TEAM Act promises a better economic future for most of America's working families. American living standards and workers' compensation have been rising slowly over the past decade largely because productivity has been growing slowly. The TEAM Act, which reforms outdated rules that impede the formation of workplace teams in nonunion settings, sets a path to a higher productive growth. It does so by clarifying the legal status of teams whose continued and expanded use are in jeopardy—

Just as I said a moment ago.

> because of a series of National Labor Relations Board decisions.
>
> The Foundation's recent study estimating the potential productivity in real wage effects of employee involvement reports documented productivity gains of 18 to 25 percent from workplace employee involvement systems in which teams play a central role.

Mr. President, much of the workplace today is governed by laws and legislation that is three to four decades old. We are coming on a new century, and it is time to modernize and make more flexible the workplace of the new century. It is time to turn away from the status quo. The TEAM Act is a progressive idea. It is an inclusive idea. It is an idea that will help stimulate the economy and make more comfortable the workplace for thousands and thousands of American families.

By a 3-to-1 margin when asked to choose between two types of organizations to represent them, workers chose one that would have no power but would have management cooperation over one with power but without management cooperation. In this same survey, the worker representation and participation survey conducted in December 1994 by Princeton Survey Research Associates, 79 percent of workers who had participated in employee management teams reported having personally benefited from the process.

I can personally testify that the corporation in which I grew up has employed a vast series and array of employee-managed teams. It has had an enormous effect on that company, a very positive effect on the company. Everybody is engaged in the overall

welfare of the company and where it is going. Morale is higher. It has been a tremendous asset to this company in which I have personal knowledge.

What happened by looking at this personal situation, though, is nothing more than a reflection of what is going on or potentially can go on all across our country.

Mr. President, on Friday, June 21, of this year, a letter signed by the chief executive officers of 624 companies and trade associations who support passage of the TEAM Act was delivered to President Clinton asking the President to reject a veto and seize this chance to lead by supporting legislation that enables employees and managers to cooperate.

Again, Mr. President, what I am saying here is that this legislation, sponsored by the Senator from Kansas, is a move to the new century. It is a move to a modern workplace. It is a move to flexibility. It is a move to better morale. We have great anxiety and frustration in the workplace today. This kind of legislation, which offers a move toward a modern setting, is absolutely required.

The letter that I referred to a moment ago was prepared in response to repeated statements by Secretary of Labor Robert Reich and the AFL-CIO that few companies care about passage of the TEAM Act.

I do not know where they are getting their information, but it is not corroborated by any survey I have seen. It is not corroborated by any of the employees who have come at their own expense to Washington from Georgia to argue in support of what the Senator from Kansas is endeavoring to do. It is not supported by anything I have personally seen in the workplace. I have had a chance to look at these teams and watch what it does to company productivity and company morale.

The letter to the President, as I said, is dated June 21. It said:

> In your State of the Union Address this last January, you said, ''When companies and workers work as a team, they do better and so does America.'' We agree, and your leadership is needed now to allow 85 percent of the American work force to respond effectively to your call.

The only way you could characterize opposition to this modern device in the workplace is that old ideas adopted by AFL-CIO labor leaders in Washington simply cannot abide by modernizing the workplace. They are benefited by leaving things just the way they are, where they feel they can be in complete control.

I point out that the measure very carefully does not affect collective bargaining. It just allows American workers the same benefits that are accruing in industrialized nations all around the world and that have threatened our competitiveness. It is time for us to modernize our workplace. It is time for us to allow our creative workplace to do those things that our competitors are doing so we can match them in this global economy.

Mr. President, I yield back any time I have remaining to the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I wish to express my appreciation to the Senator from Georgia for his comments. I know that he cares a great deal about trying to make sure we can have a creative and constructive environment in the workplace, certainly in the State of Georgia. He also recognizes how that environment has helped businesses grow in the State of Georgia.

I would like to add a comment about something else that was stated earlier, that there was really no need for us to have this legislation; that, as a matter of fact, there were many cases that had been favorably handled and that there was not a worry in the workplace.

I would just like to give an example of why there is concern. A National Labor Relations Board administrative law judge has handed down a decision in the long-awaited Polaroid case. The Polaroid Co. has been heralded as one of America's most progressive companies, having championed workplace collaboration since the 1930's.

Following the NLRB's decision in the 1992 Electromation case, which sparked this effort to try to clarify the National Labor Relations Act, Polaroid concluded that its 60-year-old teams violated the Board's rule. The company tried to restructure its committee organization to comply, but the NLRB's June 14 decision shows the futility of such efforts. Even though the new committee structure was much weaker than the old, the administrative law judge ordered it disbanded.

Polaroid further illustrates for employers the clear rule on meaningful workplace cooperation: If it happens in a nonunion setting, it is regarded as illegal.

The Polaroid case also addresses another argument propounded repeatedly by the opponents of cooperation in nonunion settings: The TEAM Act is not necessary because antiteamwork NLRB decisions only happen in small companies that are not household names. Certainly Polaroid is a household name. It is one we have all heard of, and I think the Polaroid case clearly illustrates why the current law has caused uncertainty throughout the Nation's companies as they try to comply with the letter of the law.

To quote from a press release of Bill Gould, Chairman of the National Labor Relations Board, on June 6, in which he said in a speech in Omaha:

> In a non-union situation, the sensible response to all of this is to allow employee groups, with or without a management representative component, to discuss anything that they would like to, whether it be wages, break periods or the problems confronted in selling the product. The more that workers know about the enterprise and the better that they are able to participate effectively in decision making, the more likely it is that both democratic values and competitiveness are enhanced. And, if the law is simplified, lay people—ordinary workers and small business persons—will be able to adapt to their own circumstances and avoid reliance upon wasteful litigation and the high priced counsel that go with it.

He went on to say:

> Employers ought to be able to promote the creation of and to subsidize employee groups. In the real world that is what is happening anyway. With workers unrepresented by unions in 85 percent of the workforce, how else can such systems flourish?

To be fair, as I said before, Chairman Gould does not support the TEAM Act that is before us. But clearly his statement in Omaha in June indicates that he does believe the very problem we are trying to address in the TEAM Act should be addressed. I believe, however, that the problem is addressed in the TEAM Act in such a way that it could be supported by a broad range of those on both sides of the aisle. Those who speak in opposition clearly are those who fear it will do something that, indeed, it could not do. By the language in this legislation, their fears could not be realized—it in no way infringes on the collective bargaining process or the letter of the law in the National Labor Relations Act.

Mr. President, I suggest the absence of a quorum with the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, I urge the Senate to reject the TEAM Act. Its supporters pretend it is needed to increase the competitiveness of American industry, and they pretend it will promote the kind of cooperative workplaces that will have an advantage in the world economy. But those arguments are a sham.

This legislation has nothing to do with cooperation and everything to do with undermining workers' rights. It overturns one of the fundamental protections of American law, that employers cannot set up company-dominated unions as a trick to prevent workers from joining real unions.

No one opposes honest cooperation between labor and management in the workplace. But Congress should not try to tip the balance by siding with union-busting employers.

Do not be fooled by the smokescreen set up by the employer coalition that wants this legislation. This bill is designed for one purpose only: To nullify the critical provisions of current law that make it illegal for any employer to dominate or interfere with a labor organization.

Under the TEAM Act, management can create a labor organization, dominate it, interfere with it, or terminate it as management sees fit as long as management does not try to engage in

collective bargaining or create legally enforceable rights.

What does this mean? It means that employers will be permitted to substitute a representative they control for a genuine representative of the employees. The TEAM Act would make it legal for management to foist a labor organization on employees that employees did not ask for or did not vote for. It would be legal for management to impose a company-dominated union made up of employees handpicked solely by the employer. They would meet when the employer sees fit, consider only the issues the employer wants considered, and then speak for all the employees when they do so.

The Senate should have no part of puppet unions like that. Making that kind of one-sided, phony labor organization legal has nothing to do with promoting labor-management cooperation or competitiveness. It has nothing to do with empowering employees. It is cynically designed to increase the power of employers and give managers more and more control over the lives of their employees. If management can dominate employees' organizations, they can control the demands that employees make for better pay and better working conditions.

That is precisely what happened in the court case that proponents of the TEAM Act rely on. In the Electromation case, an Indiana manufacturer responded to employee unrest about wages and benefits by setting up employee action committees that the company dominated and controlled. In the words of the U.S. Circuit Court of Appeals for the Seventh Circuit, the company proposed and essentially imposed the action committees upon its employees as the only acceptable mechanism for resolution of their acknowledged grievances.

Electromation unilaterally selected the size, structure and procedural function of the committees. It decided the number of committees and the topics to be addressed by each. Despite the fact that the employees were seriously concerned about the lack of a wage increase, no action committee was designated to consider this specific issue. I repeat that. Despite the fact that the employees were seriously concerned about the lack of a wage increase, no action committee was designated to consider this specific issue. In this way, Electromation actually controlled which issues received attention by the committee and which did not.

That is precisely the kind of domineering management behavior that the TEAM Act would legalize. Electromation demonstrates what this bill would do. Senators who think it is right for employers to impose a sham organization on their employees, who think it is right for the employer to control which grievances employees can air and how and when they can be aired should vote for the TEAM Act. But do not pretend you are voting for cooperation in the workplace. If you reverse the Electromation case, you are voting for domination of employees, not cooperation with employees.

The National Labor Relations Board, made up exclusively of members appointed by Republican Presidents, made clear the Electromation company only wanted to control the discontent of its employees after the company unilaterally changed wages and working conditions. The case has nothing to do with cooperation, quality or efficiency.

In the words of the NLRB, the purpose of the action committee was, as the record demonstrates, not to enable management and employees to cooperate to improve quality or efficiency, but to create in employees the impression that their disagreements with management had been resolved bilaterally.

In short, the company was engaged in a fraud on the employees, and the TEAM Act would legalize that fraud.

Some have suggested there is no harm in the kind of phony labor organization the NLRB struck down, because sooner or later the employees will discover the fraud and reject the employer-controlled committee. They argue nothing in the TEAM Act prevents employees from voting for a real union that would truly represent their interests.

But many of the employees in the Electromation case did see through the fraudulent action committees created by the company's management. They wanted to be represented by a union. They petitioned for a union election, but they were defeated. The NLRB filed a complaint against the company for the unfair labor practice of dominating a labor organization. The company suspended the action committees, and the union won a rerun of the election.

Once the Government stepped in and protected the employees' rights, the employees exercised those rights. Without the current law, the phony committees would never have been suspended, and the union would never have won.

That is what the TEAM Act is all about: Substituting sham, company-dominated unions for genuine employee representatives. If the TEAM Act passes and employers are given the green light to create sham organizations, it will be harder for unions to organize. That is the real goal of the TEAM Act, and the Senate should have no part of it.

Let us have genuine cooperation, not fake cooperation, in the workplace. It is wrong for employers to impose organizations on their employees that they have not asked for or voted for.

No one, that the employees have not chosen, should be given the authority to represent them. American workers today have the right that Congress gave them 61 years ago to choose their own representatives—that is what this issue is really all about—whenever they discuss the issues of wages, hours and working conditions with their employer. The TEAM Act would take that right away, and it deserves to be defeated by the Senate and vetoed.

Mr. President, I point out, once again, for the benefit of the members of the committee, our own committee report that was filed by the majority, with a minority report as well, on page 8 of that report, what the current situation is with regard to cooperation.

All of us want cooperation. All of us want the increase in efficiency, increase in competitiveness. That is taking place today. It is taking place with regard to health and safety, which had been referred to earlier in the debate. In the State of Washington and the State of Oregon, these worker committees have gotten together to consider health and safety issues. They have been appointed by the employer and representatives of the workers. They have worked very effectively.

We have seen significant reductions of Workmen's Compensation costs in the States of Washington and Oregon because of these joint committees of cooperation. They are taking place today, and they are working.

We have seen even, according to the business organizations in that State, the savings for businesses in the State of Washington of over $1 billion in the last 5 years because of this kind of cooperation. That is taking place today.

We had tried to advance a similar concept 2 years ago, and we were opposed in the Human Resources Committee by our Republican friends. We were trying to share and encourage that kind of cooperation that was taking place in the States and saving workers billions of dollars that were effectively being denied them with increased wages because they end up on Workmen's Compensation, as well as denying employers a greater return on their investment. Our Republican friends responded: ''No, we aren't going to have any part of that but as a substitute under the word of 'TEAM.' We have this other proposal.''

The committee majority report indicates ''Employee Involvement Works.''

During the past 20 years—

This is the majority. This is those favoring the alleged TEAM Act.

During the past 20 years, employee involvement has emerged as the most dramatic development in human resources management. One reason is that worker involvement has become a key method of improving American competitiveness.

Evidence of the success—and corresponding proliferation—of employee involvement can be found in a 1994 survey of employers performed at the request of the Commission on the Future of Worker-Management Relations. The survey found that 75 percent of responding employers—large and small—had incorporated some means of employee involvement in their operations.

That is going on now. That is taking place today. Meaningful cooperation is taking place today.

Among the larger employers—those with 5,000 or more employees—the percentage was even higher, at 96 percent. It is estimated that as many as 30,000 employers currently

employ some form of employee involvement or participation.

It is working. This is a problem that effectively does not exist, with the exception of those particular employers who want to use this as a means and a device to undermine legitimate worker interests in terms of their working conditions and in terms of their future salaries and their economic interests.

The success of employee involvement can also be found in the views of American workers. A survey conducted by the Princeton Research Associates found overwhelming support for employee involvement programs among workers, with 79 percent of those who participated in such programs reporting having ''personally benefitted'' from the process. Indeed, 76 percent of all workers surveyed believed that their companies would be more competitive if more decisions about production and operations were made by employees rather than managers.

It is happening today. It is going on as we are here this afternoon.

Clearly, employee involvement is more than just another passing fad in human resources development. Over the last 20 years, it has evolved—along with a global economy—into a basic component of the modern workplace and a key to successful labor-management relations. As such, American industry must be allowed to use employee involvement in order to utilize more effectively its most valuable resource—the American worker.

Everything on there we agree with. That is not what this is about. That is taking place. Even the majority is pointing out that 30,000 employers currently are doing this. So it is suggested by some, well, they cannot do it enough or they are concerned about this particular issue and this particular problem.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. KENNEDY. I ask, Mr. President, what is the time agreement?

The PRESIDING OFFICER. There is an hour on the bill, equally divided. The Senator could use some time off the bill.

Mr. KENNEDY. Yes. I will yield myself 15 minutes on the bill.

The PRESIDING OFFICER. The Senator is recognized for 15 minutes.

Mr. KENNEDY. Mr. President, now just to refer to the fact that cooperation between the employers and the employees is necessary. The majority has recognized that in the largest plants, it is about 96 percent being utilized and in the smaller plants over 75 percent.

So now let us look at what has happened since 1992, since this Electromation case that evidently is causing all of this uncertainty out there with regard to this kind of cooperation—there are 30,000 companies where this is taking place. ''The NLRB Orders to Disestablish Work Committees,'' from 1992 through 1995, 4 years. And 30,000 employers doing it.

Are there any disestablishment orders in the State of Washington? No, not even one. Any in the State of Oregon? No. Zero. In the State of Nevada, zero. These are cases allegedly that are being brought, can be brought by employees, employers. disestablishments in California, two. Utah, zero. Arizona, zero. Alaska, zero. One in Colorado. None in Wyoming. And the list goes on. None in North Dakota. None in South Dakota.

What is the problem, Mr. President? We are saying we are all for cooperation. If we do not have a problem, I think it is reasonable to ask, what is really the purpose behind this legislative effort? And I suggest that the real purpose of it is not just to develop the cooperation, which is taking place today, but is effectively to undermine the legitimate economic interests of the workers in those particular States.

Mr. President, we can look at how much of a problem this is. I hope our colleagues will look through this. This is a handful of cases between 1992 and 1995 that this bill is supposed to correct.

Mr. President, if we look over here we can see that this is even more graphic as to what the true problem is; 8(a)(2) charges—these are the charges that we are considering here to address the TEAM Act—227.

Now 8(a)(3) charges. What are these? These are the firings of various workers for their participation in union activity or trying to join a union. They are being dismissed, illegally, by their employers. Those are 8(a)(3) charges, 13,000. Compared to 8(a)(2), 227.

Look. In 8(a)(2) remedies, 87 remedies out of the 227. Look. Remedies for reinstatement, 7,000; and 8,000 for remedies of back pay. Remedies for reinstatement are when there has been adverse action by the employer, violating the law. That is what these cases are, 7,900 of them in 1994 to reinstate because of illegal activity by the employer versus 87 with regard to 8(a)(2).

It seems to me if we ought to be here this afternoon, we ought to be doing something about these workers that are being illegally abused and treated in their employment by employers. For 8(a)(3), 8,500 were reinstated with remedies for back pay.

Mr. President, nonetheless, we are asked to go on out here because of this uncertainty, allegedly. We do not have any record to indicate that this is a major problem. What we do have is the major indication about what is happening out there in the real working places of this country. We are interested in cooperation. But the way to get it is to have employers respect employees and to have that vice versa, Mr. President. That is done when you have effective collective bargaining.

What has happened? ''Proportion of the NLRB Elections in which a Union Supporter is Illegally''—Illegally—''Discharged.'' If we were around here to consider what we ought to be doing something about, look at the growth, according to the NLRB, in cases where a worker is illegally discharged, from 1975 to 1985, and right up here in the 1990's. The increase of 400 or 500 percent, depending how you want to calculate it, over that period of time, where we are finding individuals—individuals —are pursuing their economic rights for themselves, their wives, their children, illegally discharged under the current law. That is what is going on out here in this country.

Here is another chart that would support the same kind of analysis in terms of the 8(a) charges. In the early years you find out, between 1950 and 1954, for the 8(a)(3) charges, the number of average annual back pay awards going up considerably here, as it indicates that these workers are being illegally fired. The average number of reinstatements continues to escalate because they are being illegally fired. That is happening to individuals.

Finally, Mr. President, this other chart I have back here would indicate what the percent is of the total number of cases that we are talking about. I direct our colleagues right up here, 8(a)(2). Of this whole pie, for the illegal activities of employers against workers, for all of this whole pie, this tiny slice is it, right in this darkened area, 227 cases. Yet we are being asked to legislate on this particular issue.

It is a problem, Mr. President, that does not exist. This is being promoted, supported, for legislative action by those who are the most strongly committed to denying equal justice and fair justice to the workers of this country. That is why it is not coincidental that we will have this debate and a vote tomorrow, and we will have the vote on another proposal that is antiworker on the issue of the right to work.

We will have the proposal for a cloture to end debate on the right to work bill. The bill was put down last Friday. We have been under controlled time on these other matters for the time. But, nonetheless, we will be asked to vote to end debate. I do not know of any filibuster that has been promoted on that measure, but we will be asked to vote to end debate, despite the fact it was never reported out of committee. We had one day of hearings. It was never reported out of the committee. And they laid down a cloture motion on that legislation to deny any kind of discussion, debate.

We are going to have that. We will have these two measures, one on a matter that is really not before the workers and employers of this country. The report itself has demonstrated the expansion of work cooperation, which we agree with and which we support. The total number of cases are pitifully small against a background where there is increasing illegal activity against workers. And their interests are being ignored.

Mr. President, just to speak very briefly for just a few moments on the issues of the right to work. It is so interesting that it is our Republican colleagues who are constantly talking about the right to work issue. We now find that there are some 23 States that are right-to-work States. The remaining majority of States are not right-to-

work States. So States have been making their minds up under the current and existing law. States have been deciding what is in their interest.

How many times have we heard that talked about here on the floor of the U.S. Senate? States ought to be able to make their judgments. We do not want the long arm of the Federal Government interfering with the legitimate interests of the States. Now wait a minute, with the exception of the right to work. There we want a Federal imposition of a national policy that will have the right-to-work statute override State law.

What does that really and effectively do? This is the interesting point. Under the current law there is no requirement that any worker be required to join a union if the decision is made by the members, the workers in there, to go and vote for a union. They are not, under current law, required to join. But if they are going to continue to work there, and there is going to be continued enhancement in terms of their wages, working conditions, in their child-care programs, and their pension as a result of collective bargaining, they can be required under the current law—if both the employer and the union agree—to at least pay for that part of the union activity that is going to enhance their benefits. In other words, no freeloaders, no freeloaders.

If they are going to be a part of the work force in a particular plant or factory, and they choose not to join their union, they have that right not to do so. If the union goes ahead and gets an increase in terms of wages, an increase in their health care benefits, an increase in consideration for child care or other kinds of activities as a result of their activity, then that individual has to make a contribution to the extent that those dues would be used to finance that financial and economic enhancement. OK, that is what the conditions are under the law today.

Now, we will have a situation when we vote tomorrow, we will vote on cloture on a bill that will say, ''Look, to those workers that are out there, if you in your particular company vote to have a union, you do not even have to pay for any of the basic improvements that you get in your working conditions.'' If that union goes on out and has a strike and enhances their economic conditions, increases their wages, improves working conditions, increases health care, gets better coverage for patients, pensioners, and better coverage for children at the end of the day, that other individual who gets the same benefits does not have to pay a thing, does not have to pay a thing.

That is the effect of the passage of a national right-to-work law. That is what this act is all about. Apparently, some Senators do not think that the people in Massachusetts or the State of Washington or the State of Kansas or any other State can understand that concept sufficiently enough to be able to make their own judgment. We, in our almighty wisdom, say that we are going to make that judgment here on the floor of the U.S. Senate, and even cutting off more debate.

Mr. President, how can you interpret that to be anything more than a wholesale assault on the economic rights and the struggling efforts that have been a part of the trade union movement to enhance their working conditions and economic justice in this country? At a time, Mr. President, when the rich are getting richer, when the top 20 percent are the ones that are benefiting the most from this economic expansion, and the other 80 percent of Americans are being left out and being left behind in too many instances, there is just a wholesale assault on those working families. What is it about us that we want to take it out on these working families? I do not understand it.

Looking at the economic history from 1950 to the early 1970's, everyone moved along together. We all went along together. Americans went along together. Now we see this enormous disparity when those that are the weakest, entering the job market, denied the opportunities in education because of changes in our education system and the support systems to permit qualified, talented young Americans to go to schools and colleges and get the training. At a time when they have that need, what are we saying? We are saying, on the one hand, under the TEAM Act, we are going to give more and more authority and power to the employer, to take it out on you, the workers, on the backs of the working men and women, by weakening your economic ability to look out for your interests. Not only are we going to do that, but we will superimpose a national right-to-work program that on the other hand is going to remove any kind of responsibility from those who are working in a workplace where they get economic advantages are going to be participating and paying their fair share. No, you can be a freeloader in America; you can be a freeloader. Others who want to work through the economic system and work through collective bargaining, if they get some benefit, you can stay and get all the benefits free and clear, and we have to make that judgment here.

That has been against a background where we have had this constant resistance to provide any increase in the minimum wage, and only reluctantly and finally today have we been able to have the opportunity to gain an expression on the floor of the U.S. Senate to provide an increase in the minimum wage. It is against a background of continued efforts to undermine the earned-income tax credit which works, again, for the low-income workers who have children.

Now, you just cannot say, Mr. President, that this is all accidental, it is all coincidental. We are also declaring war on Davis-Bacon. The average income for construction workers is $27,000. I was so amazed and interested that as soon as our Republican friends gained control of the U.S. Senate, one of the first things they did was offer a repeal of the Davis-Bacon Act, which requires payment of the prevailing local wage for construction workers in this country so that the Federal Government will not be a promoter or detractor in terms of the wages——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. I yield myself 10 minutes.

That the Government would not be a participant in trying to tilt the scale of economic justice in the bidding on construction contracts. They came right here on the floor of the Senate and tried to repeal that particular protection, undermine the conditions for construction workers—who average $26,000 or $27,000 a year, and have the second most dangerous job outside of mine workers in this country—undermine their ability to provide for themselves. And cutting back on the earned-income tax credit for those people that make $25,000 to $27,000 and are trying to provide for their children.

They oppose an increase in the minimum wage. Now they are doing it with regard to a national law on the right to work, and they are also doing it in terms of the TEAM Act. Can we look against that background and say, Oh, we have here a TEAM Act that really is in the interests of those working families, when we have the solid record of what the majority has been attempting to do to working families? You have a tough time convincing me of that, Mr. President. You have a tough time convincing me of that. All we have to do is check and talk with working families and we find out what those answers are.

Mr. President, I hope when the time comes that the TEAM Act would be rejected. I have admired the efforts of Senator DORGAN and others to try and find some common ways they think this matter can be resolved. I understand that they are working on that particular measure. I, myself, am unconvinced that we ought to be doing anything at all in this particular area. It is basically a problem that does not exist, but I certainly want to listen further to my colleagues and friends who have been strong advocates for working families, and will continue to consult with them.

I withhold the balance of our time.

Mr. GORTON. Mr. President, I yield myself such time as I may use upon the Dorgan amendment, and if I utilize all of that time, then I will use time from the bill.

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

Mr. GORTON. The distinguished Senator from Massachusetts has talked about the large number of proposals before the Senate in one form or another, two of which will actually come to a vote sometime in the next 24 or 48 hours. I will restrict my remarks to

those two and will attempt to be relatively brief in connection with each.

First and foremost, because we will be voting on TEAM in an ultimately final form and presumably sending it back to the House and I hope to the President of the United States, I wish to make a few remarks on the TEAM Act itself.

The Senator from Massachusetts, it seems to me, has two objections to the TEAM Act which are not entirely consistent with one another. The first is that it is a terrible idea to allow labor-management cooperation outside of a formal union-management negotiating session; that we are still, in America, in the position we were in the 1930's in which most people who work and most people who are employers or supervisors regard themselves in polar opposite camps with antagonistic kinds of interests.

The second argument made by the Senator from Massachusetts seems, paradoxically, quite different and that argument is that there are so many of these teams and so much cooperation going on at the present time without any harassment being aimed at it, that we do not need this legislation.

Mr. President, I think that both arguments are in error, as largely inconsistent as they may be. We live in a very different world than the world faced by our predecessors who passed the National Labor Relations Act of 1935, in a quite different world than the only time in which major changes were made in that act in 1947.

By and large across this country, both labor and management realized that management cannot be successful unless it has happy, productive, and committed employees, and that employees recognize they cannot be successful unless their management, unless the company for which they are working, is itself successful. As a consequence, there is a far greater feeling of community of interest today than there was at the time of the passage of this act.

So what is it that the Senator from Massachusetts asks us to believe? He asks us to believe that these interests are always antagonistic with one another, that employers lust after the ability to do in their employees in one way or another, largely by subterfuge. He speaks of a world, Mr. President, that simply does not exist today, and he speaks about a bill that is very, very short and quite plain in its meaning.

I can read for you the 10 lines of the bill that is before us that include the entire substance of the legislation, and it reads, and I quote.

> . . . it shall not constitute or be evidence of an unfair labor practice . . . for an employer to establish, assist, maintain or participate in any organization or entity of any kind, in which employees participate to address matters of mutual interest (including issues of quality, productivity and efficiency) and which does not have, claim or seek authority to negotiate or enter into collective bargaining agreements under this Act with the employer or to amend existing collective bargaining agreements between the employer and any labor organization.

That is it, Mr. President. That is all there is to it. People can get together voluntarily to solve problems without running afoul of the National Labor Relations Act.

The Senator from Massachusetts has said in his argument you can only have cooperation effectively with effective collective bargaining. But in the private sector, only 12 percent of all of the employees of this country have chosen to engage in formal collective bargaining through a labor-management relationship.

The National Labor Relations Act protects the right of employees to join unions and to bargain collectively. It also protects the right of employees to say, ''We do not want to do it in this way.'' And 88 percent of all of our private sector employees have chosen the latter course of action. Yet, at one level, the Senator from Massachusetts says they should not be allowed to do anything at all. Everything that is done is likely to be a subterfuge for a company-dominated union to get around the National Labor Relations Act itself, and at the other level he says, ''Oh, no, we can do it already.''

The problem is that the ability to continue to do what has grown up spontaneously all across this country is threatened by the actions of the National Labor Relations Board and of the courts of the United States.

All this proposal does is, in effect, to say you can keep on doing what you have been doing. You can deal with a number of matters of general interest like quality, productivity, and efficiency, and, if we pass the Kassebaum amendment, it will add to that health and safety as specific subjects for such cooperation together with other alliances.

That is all it says. The Kassebaum amendment will make it even more clear that this does not undercut those labor-management agreements that exist with respect to 12 percent of private sector employment which is covered by collective bargaining agreements at the present time.

My question is: What are they afraid of? This is happening. It is threatened. This bill will remove that threat. No one has to engage in this kind of activity who does not wish to. Any group of employees who wish to join a union and operate under the National Labor Relations Act retains the right to do exactly that.

This is 1996, Mr. President. We have a far more cooperative attitude today. We need that more cooperative attitude to compete with the rest of the world. We need it for the increasing prosperity of our society, and this bill, with the Kassebaum amendment, will accomplish exactly that goal.

We do not need to repeat the arguments of 1935. They are no longer relevant. It is possible to do a job both for employees and employers outside of the specific strictures of the National Labor Relations Act. That is what the TEAM Act proposes. That is why it ought to be passed.

I must say I do find myself in agreement with the Senator from Massachusetts on one of the other subjects that he brought up, and that has to do with the cloture vote on a national right-to-work law, which will also be voted on here. I intend, as he does, to vote against cloture on that proposition because I am, as he said he was—but I think there is a little bit of disingenuousness in it—very much in favor of the present law which says that each State can make its own choice with respect to whether or not it will have a so-called right-to-work law on its books.

Twenty-three States have made such a choice. Twenty-six States have rejected such a choice. My own State is one of those 26 which has done so twice by referendum by a vote of the people of those States themselves.

I believe that is precisely the correct balance in this highly controversial issue. I do not believe that the people of the State of Washington should govern the decision of the people of Wyoming in that connection, or the people of Wyoming, the choices that are made by the people of the State of Washington.

So I like the present law. I was delighted to hear it defended by the Senator from Massachusetts, except for the fact that during almost his entire career he has wanted to repeal the right of States to make that choice. In other words, he may here today be defending States rights, but, in fact, he wants to deprive the States of those rights and to say to a State that has chosen quite freely to pass a right-to-work law that you do not have the privilege, you do not have the right to do so.

I think this is a matter of federalism. I think this is a matter which the people of each State should be permitted to choose for themselves.

I, therefore, will vote against cloture, but I think as a result of a more profound devotion to federalism that is, in fact, shown on this issue by the Senator from Massachusetts.

The really important issue, however, Mr. President, is, in fact, the TEAM Act. It is, in fact, confirming the right of both employees and employers to do what they are already doing in 30,000 workplaces around the country: to encourage others to do the same thing without undercutting the rights of any person who wishes to be a part of a labor union whatsoever. In order to confirm those rights, we need to pass the bill.

The bill reflects the real condition of our workplace today. The bill promotes effectiveness and the competitiveness in our workplace, and, perhaps equally significantly, it promotes the kind of cooperation that makes work a more pleasurable as well as a more remunerative way in which the great majority of the working age population of

the United States lives so many of its hours at the present time.

It is important that we pass it. I think it is significantly important that we pass the Kassebaum amendment. But it is one of the rewards of this long debate over minimum wage that we are not being subjected to a filibuster on the TEAM Act but, in fact, are going to be permitted to express our views on it tomorrow. I look forward to its passage.

With that, Mr. President, seeing no one else desiring to speak, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. GORTON. Mr. President, I ask unanimous consent that the quorum be divided equally with respect to time of each side.

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

The clerk will call the roll.

The bill 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.

Mr. HATCH. Mr. President, I rise to speak in strong support of the TEAM Act. I commend Senator KASSEBAUM, chairman of the Senate Labor and Human Resources Committee, for bringing this bill out of committee and making it a high priority.

I think it is useful to begin with a review of why this legislation is necessary. Because the idea of employer-employee communication and cooperation seems so fundamental, it is astonishing to some people that this measure must be debated at all let alone the fact that it is so controversial.

In 1992, the National Labor Relations Board issued a decision in the Electromation case which held that employer-employee committees to discuss workplace procedures and policies violated the National Labor Relations Act.

As a former union member, I understand full well the NLRA's prohibition on so-called company unions. But, the Board's decision in Electromation, which defines a ''quality circle'' or ''child care center feasibility committee'' or other form of employee-employer committee as a company union, misses the mark entirely.

It simply cannot be claimed at the NLRA was intended to outlaw every type of employee-employer input mechanism. To state otherwise is to advocate that workers can communicate with employers only through unions. Since when does the U.S. Government impose that kind of gag rule on American workers?

I can hardly believe that my colleagues on the other side are going along with this twisted interpretation of labor law.

But, I suppose $35 million from the AFL–CIO could be a powerful incentive to grant organized labor such a special privilege at the expense of the rank and file.

The TEAM Act does not—does not—authorize any employee committee or cooperative organization to engage in collective bargaining.

The TEAM Act does not—does not-affect any employee's right to join a union. It should be noted that the TEAM Act applies to nonunion employers.

So, what are some of the horrible things that employee-employer committees are barred from discussing?

It is illegal under Electromation from discussing free coffee for employees. It is illegal to discuss the possibility of providing a soda machine, microwave, or other furnishings for the employee lounge.

It is illegal to discuss tornado warning procedures or rules about fighting. It is illegal to discuss a ban on radios or the use of video game machines. It is illegal to discuss rules about posters, drug and alcohol testing, dress codes, or a smelly propane buffer. It is illegal to discuss sponsoring a company softball team.

I cannot believe that there is a single Senator who would defend such obstruction to cooperation and employee input in decisionmaking. And, it seems pretty incongruous to me that an American institution that claims to want to give workers a louder voice in their workplaces is leading the opposition.

It seems as if organized labor is afraid of empowering workers. It seems that organized labor does not want workers to have their own voice. It seems that organized labor not only does not condone employers who seek out workers' opinions on workplace issues, but also demands that such openness continue to be punished by law.

Mr. President, there is really very little more to say about this measure. The TEAM Act, which would repair this ridiculous interpretation of the National Labor Relations Act, is a good, commonsense bill.

Once again, I want to extend my appreciation to Senator KASSEBAUM for her leadership on this issue. As one who has walked a mile in her moccasins, I know just how confounding any change in labor policy can be. I mean, good grief, the dollar threshold for the Davis-Bacon Act has not been raised since 1931.

I urge all my colleagues to support this measure. And, I call on President Clinton to sign it into law.

Mr. BROWN. Mr. President, I rise today to offer my support to the TEAM Act. In my own State of Colorado, I have seen how beneficial the TEAM Act can be to both employers and employees. The reason for the success is simple, the TEAM Act makes good sense. The act ensures that all employees have the right to be heard, thereby strengthening the hand of U.S. companies in competitive world markets. The TEAM Act does this without hindering the rights of employees to choose union representation or infringing on workplace safeguards that are already in place.

Any well-intentioned law can have harmful, unintended consequences. The Team Act would rectify the unintended consequences of section 8(a)(2) of the National Labor Relations Act to allow employees and managers to address issues such as scheduling, work assignments, health and safety, training, and work rules, all of which are now illegal topics of discussion in nonunion workplaces.

The archaic provisions of section 8(a)(2) of the 1935 National Labor Relations Act are entirely out of step with modern management techniques that are mutually beneficial to employers and employees. It is shocking to this Senator that employers and employees are not allowed, under the law, to sit down and discuss issues of importance to them. A regulation designed to protect American workers has been twisted to a purpose for which it was never intended. No law should prevent employees and employers from working together for the common good of the employee and the company.

Management-labor cooperation makes a lot of sense. The people actually doing the work often have a better handle on the problems and possible solutions that can help American industry be much more productive. The TEAM Act encourages workplace cooperation by involving the employee in the decisionmaking process of the company. Active participation in discussions about quality, production, and other workplace issues makes companies like Eastman Kodak in Windsor, CO, run more smoothly and produce a better product.

If American companies are going to remain competitive, employers and employees must work together to improve quality productivity, safety, and efficiency. Countries such as Japan and Sweden have already implemented this practice of cooperation in the form of quality circles in which managers sit down with employees to plot strategy, improve quality and productivity, and discuss safety. To remain competitive on the global market American companies and their employees need to be able to come together and discuss their concerns without fear of being penalized for violating the National Labor Relations Act.

Currently there are over 30,000 companies with workplace cooperative programs. It is time to change an outdated law and let employers and workers cooperate. It is my hope that we will pass the TEAM Act.

Mrs. KASSEBAUM. I yield 10 minutes or such time as the Senator from Vermont would need.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I have come to speak on the TEAM Act. I do so because I feel very strongly that there is a misunderstanding as to what we are discussing, the importance of it to this country, and that if we sat back and took a look at where we are and what we are talking about and understood the ramifications, there would be unanimous support for the TEAM Act.

I come to you with somewhat of a different perspective than some of my colleagues. I earlier today supported the minimum wage. I am not one who has anything but respect for the various positions of labor versus management. Sometimes I am with one; sometimes I am with the other. On this one, I am strongly in favor of doing what must be done to improve this Nation's productivity, and that is what we are talking about here—this Nation's productivity—for if there is no productivity, there is no profit. If there is no profit, then there is nothing for the workers and the management to split up for the owners and the stockholders.

So I come here as an original cosponsor of the TEAM Act because I believe that cooperation between employers and employees is the wave of the future. Unfortunately, it has been the wave of the future for our competitors for some 40 years. We are behind. Why? The historical confrontation and conflict models of industrial relations will not serve us in this 21st century, the models that were created in the 1930's when we had industries taking advantage of workers, when it was necessary for the workers to join together to fight for higher wages and to fight for their share of productivity. We now have a realization that the processes we utilized in the 1930's are no longer relevant. That was learned by our competitors many years ago.

I was a senior at Yale University back in the late 1950's, and at that time we took a look at what needed to be done to improve productivity and to improve how our Nation could meet the demands of the future. Many suggestions were made. I remember writing my senior thesis, and I understood what needed to be done, in my own mind, in order to improve the productivity of this Nation.

At that time we were discussing innovative matters, such as workers and management getting together, learning how to split the profits through profit sharing, stock options, and all of these matters. It was a fascinating time for academia. As we studied and put together imaginative ideas on how to improve productivity in the Nation, there was just one problem. Nobody was listening, neither the management nor the workers, for they were all still in the 1930's mode, wondering what could be done as they fought each other to see who could get the advantage over the other.

Who was listening? The Germans, the Japanese—the Asians, the Europeans. What happened? If you look back now, you see such an unbelievable contrast of what the goals were in manufacturing, and what the results were. Ours was, ''fight, fight, fight.'' And what happened? As we went through the years, the relationships between management and workers did not improve. In fact they got testier, they got worse. And in some cases, like the automobile industry, workers were in a situation where they got tremendous advantages for themselves, but all of a sudden they were fighting the Japanese and Germans, and those automobiles came in with much better quality. And what happened? We almost lost the automobile industry.

Why? Because the Europeans and the Asians had understood, as we did not at that time, that if the workers and management could sit down with each other, could take a look at what their problems were that they had to face, how they could improve quality, how they could work in order to improve productivity, could improve the profit, then they could all sit down and have a better chance to make sure they were each taken care of.

So, if you look back at what happened in this Nation, the relationship between laborers and management has not improved. In fact, it has even gotten worse in many cases: ''fight, fight, fight.'' What happened? If you take a look at the unions, our unions have gotten weaker. The union movement now is frustrated because it cannot organize the companies. On the other hand, in Germany and in Japan the opposite took place. They learned how to get together, concepts which are a little frightening to those who were worrying about communism in the 1950's. ''My God, you cannot let workers and management get together.''

But they learned to improve their productivity and the way they did things. When things were returned you went, not to the managers, you went to the production line and said, ''How come all these parts came out this way?'' And the workers sat down and said, ''If we improve this, we will have better quality and sell more.'' And then what happens? You then argue over how you split the increase in productivity.

If you examine the unions in Europe, what happened to them is, using these concepts, they got stronger and stronger. And in Asia they got stronger and stronger. In fact, in Germany there are workers on the boards of directors. In Japan they had worked out work security agreements long before our workers did in this country. The main desire there is to keep people employed, even sometimes at the expense of stockholders; even, sometimes, at the expense of corporate profits.

So there the unions, by working together with management toward a common goal, strengthened the union movement in those countries. In this country what happened? We were still fighting against each other and were not worried about productivity.

So what has happened now? This kind of, fight, fight, fight, has resulted in weird decisions under the NLRB, saying you cannot even sit down and do the most menial things without going through the whole process of unionization. We have some 30,000 businesses now that can be intimidated into doing something because, if they sit down and try to work it out to improve productivity, they may have an action brought against them to stop them from working together, stop them from doing what is necessary to improve their business. They could get fined, they could receive an injunction to prevent what ought to be done so they can have more productivity, more profit to split among the stockholders and workers together.

So why in the world would we now say it is a bad idea to do what our competitors across the world have been doing, putting us out of business, and we say we cannot sit down and work together without going through the whole unionization process? It may not be too late for us. But it is such a simplistic thought, that it is a good idea for us all to sit down and figure out how we can change the production line to improve the product, so we can sell more and then talk about an increase in wages, instead of saying no, you cannot do that because that may mean we are working too closely together.

If we work too closely together, my gosh, that is not good.

Why not?

Well, I don't know, but it was not good in the 1930's so it is probably not good now.

We are not in the 1930's. Relationships between employees and employers have changed dramatically in those areas where we figured out the best way to work is to work together. We have shining examples in this country, Motorola and others, who have learned how to compete, and to a certain extent the automobile industry, that has learned how to compete. All it means is to learn to work together.

The TEAM Act means we can work together and improve everybody's lives. We can improve the safety, we can improve the productivity, and we can improve the profit. Why in the world would you be against that? Why? Because we are still in a mindset of the 1930's, which is long gone if you want to be a competitive business in this Nation.

So I urge my colleagues to forget a lot of the rhetoric they have heard and just think about the basics of business. That is, if we work together, management and labor can sit down and figure out how to improve things, how to improve safety so we lower costs, how to improve the quality of the things we produce so they are more salable—how we can make sure we all have a better profit, a better business, a safer business, so we can be healthier and happier. So why in the world can anybody be against the TEAM Act? I just do not know how.

I am hopeful my colleagues will understand that this is incredibly important for the future of this Nation. For we are being driven out, in many cases, by our competitors, who understand that teamwork is the answer to their future. I say we had better learn that lesson. And the way we are going to start learning it is pass the TEAM Act so those businesses that do understand what needs to be done can do it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I want to express my appreciation to the Senator from Vermont, who has been a stalwart supporter of this legislation, for putting it in a historical perspective that helps us understand why it is important for us today, and relevant, to consider the innovations that would help us establish an environment in the workplace that will lend it great creativity.

Another stalwart supporter who has done much to enhance this legislation and work with the business community is the Senator from Missouri. I yield him as much time as he desires from the Kassebaum amendment.

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

The Senator from Missouri.

Mr. ASHCROFT. I thank the Senator from Kansas for her excellent work in helping us develop the capacity as Americans to be competitive and to be productive, and to maintain our standard of excellence around the world.

There is no other nation that has the capacity, especially in areas of complexity, that the United States does, whether it is in pharmaceuticals or just in technological industry—whether it be computers, software, or hardware, the United States is No. 1.

It comes as a result of the recognition of the importance of the human resource in the equation. You simply cannot be competitive without tapping every part of the resource that you have. When we think of this summer and the excitement that will surround the Olympic Games in Atlanta, it is unthinkable that we would send teams to Atlanta and forbid the coaches to talk to the players. What nonsense that would be, not to allow a player to come off the field or off the court and say to the coach: ''This is what they are doing. This is how we can make an adjustment to improve our performance, to make it possible for us to be winners instead of losers.''

It is a fundamental recognition of the fact that the people on the court will have a different perspective than the people off the court. The people on the field will have an awareness of how things are going that is special, different, unique, and of value.

The same is true in industry. No matter how hard a compassionate manager tries to observe the process from outside, no matter how well the engineer from the design room tries to structure the environment for productivity, the fellow who is actually on the floor is going to have an ability to say, ''This doesn't work here. It may look good in theory, but it doesn't work in practice.''

We need to tap the resources of the broad spectrum of individuals on the American team for productivity in order to make sure that we continue to be winners, that we continue to forge a position for the United States which puts us at the top of complex industries, the most valuable services and goods in the world, and gives us the opportunity to maintain a standard of living that makes America a great magnet.

Last I checked, people were still flocking to these shores. They were not leaving here to go elsewhere. They were still coming here because of the great opportunities that exist, because of the way in which this culture recognizes the contribution that can be made by citizens generally.

I think that is what the TEAM Act is all about. It is about understanding and recognizing the tremendous resource that workers are, that they can be to their own future by guaranteeing productivity and thereby ensuring job security, that they can be to the competitive position of this country by outproducing and outworking and outthinking and outsmarting and outcooperating workers anyplace else in the world.

Most Americans would believe, and it is because we are commonsense people, that it is OK for employees and employers to talk. If you would have listened to the debate in this Chamber, you would have heard from those on the other side of the aisle, ''Why, it's all right, it's all OK, it's perfectly legal right now. We don't need this.''

When they say it is perfectly legal now, we do not need this, it confounds me that they have amendments to this. Why would they want to have a substitute proposal for something that is perfectly OK? The truth of the matter is, it is not perfectly OK.

Let me read from a list of things that have been ruled inappropriate for nonunion employers to talk to their nonunion employees on. Let us just let the American people have an understanding of what the law is here and whether it needs to be changed.

If you discuss the extension of the employees' lunch breaks by 15 minutes, that is illegal, from the case of Sertafilm and Atlas Microfilming;

The length of the workday, to discuss how long each workday is going to be, that is illegal, from Weston & Brooker Co.;

A decrease in rest breaks from 15 minutes to 10 minutes, that is illegal to talk about with workers;

What paid holidays you have. The Singer Manufacturing case held that was illegal to talk about;

The extension of store hours during the wheat harvest season. The Dillon's company case said you cannot talk with workers about that to get their input.

Who are we trying to kid? Workers know what kind of break they need. Workers know what kind of workday they would like to work. I know of one plant in my home State that decided they wanted to work 4 days of 10 hours a day instead of 5 days of 8 hours a day and have 3-day weekends every week. Why would Government stand between workers and manufacturers, between managers and employees or their associates to say you cannot discuss those things, and yet that is what the law is for eight out of nine American workers, because eight out of nine American workers are nonunion workers.

You see, this is something that is totally and perfectly all right for union workers to talk with employers about. It is just not legal according to the National Labor Relations Board for nonunion.

I could talk to you about other things. Safety labeling of electrical breakers is wrong for the managers to talk to the employees about. I hope they go ahead and talk about it anyhow. They ought to.

Tornado warning procedures: Wrong, cannot talk about that.

Purchase of new lifting equipment for stock crew: Wrong.

Rules about fighting: Wrong.

Safety goggles for fryer and bailer operators: Wrong.

Wait a second. We do not want to rule out of the equation of American business the contribution that employees can make to the safety and productivity, to the efficiency, to the level of service. If the store workers want to mention to the managers that we should stay open later during the wheat harvest in the Great Plains of America, which turns out to be the bread basket for the world, it seems to me that we should not make that against the law.

The sharpness of the edges of the safety knives: That is illegal to talk about.

Pensions, profit-sharing plans, overtime pay: Cannot talk about that.

Oh, it is said that, ''Well, if you talk about those things, the people will think you have a union when you don't. It will be a sham union.'' Frankly, I do not underestimate the American worker that severely.

Over the Fourth of July, over the break of the last 10 days, I went and worked in about five or six places in Missouri, actually on the job side by side with people. I never met a single worker who did not know whether he or she was in a union. They know. Who are we trying to kid? Workers know whether union dues are being deducted. They know whether they are in a separate organization. It is not hard. This is not above the capacity of the American worker. What strikes me is that the American worker is bright.

I was involved in some jobs which I thought, looking from the sideline, might be easy or simple, and I found out that to do them well, there were subtleties about how you did them,

there were challenges, and the American workers develop those capacities and those subtle efficiencies and they know how to put them in the system. They should be able to talk to managers about them.

The idea somehow that if we allow managers to talk to employees, employees will be tricked into thinking they have a union when they do not have a union is ludicrous. It underestimates the intelligence of the American work force. American workers know, they know for sure, they know surely whether or not they are in a union.

A second objection from the other side is, ''Well, maybe if we allow people to talk, they will be just talking to certain employees who only have limited views, and they will not reflect the views of employees generally.'' There is a safeguard. If there is an unfair system established where workers and employers are communicating with each other and it is working against the interests of the workers, it is easy. Workers have every right to unionize. They can form a labor union. They can petition for a labor union. They can ask that unions come in if they think it is unfair.

There is a structural guarantee of competition. If nonunion systems are not working well for employees, if these things are likely to be so distorted or so unfair, nothing in this law, nothing in this proposal in any way derogates, undermines, erodes or otherwise lessens the right of a worker to petition for an election to organize or unionize a plant.

If the teams are unfair representatives or if they are shams or if they are in some way defrauding or abusing the workers, it is clear there is a remedy, and there is every incentive for employers and companies not to engage in that kind of activity, because this law does nothing, does absolutely nothing to change the right of workers to ask that they be represented, if they choose to, by a union.

There are about 30,000 employers that would like to have such plans. Why is it they would like to have such plans? Because they have seen that when we work together we succeed. Strange to me, that is basically a quote from President Clinton's State of the Union Address. He said, and I agree, and I quote, ''When companies and workers work as a team, they do better, and so does America.''

The real truth of that matter is understood in the hearts and minds of everyone who has ever worked on a team, knowing that when you work together, you do better than when you work at odds with each other. Yet we see this administration and its representatives in the Department of Labor opposing this opportunity, and they should not.

When I was Governor of the State of Missouri I had the opportunity to work with companies. Like I do today, I would go and work on the assembly line. I would go and work with people to learn about their jobs to see what was happening.

One of the companies that was hauled into the justice system of the Labor Department for cooperating with its employees was a company called EFCO Corp. It was a small company in Missouri, had about 60 jobs. Now it has over 1,000 jobs. Much of its capacity was to increase its on-time deliveries, which went from the low seventies up into the high nineties, and which allowed workers to start working 4 days a week instead of 5 days a week, get their 40 hours in in 4 days and have long weekends, spend more time with their kids, accommodate the demands of their families. It all came from these programs.

What was most distressing was that when EFCO wanted to be involved, it was said to have dominated its discussion groups or teams because they provided employees with pencils and pens and allowed them to have access to the financial records of the company. That was what the NLRB said was a violation.

You would say this company is bending over backward. It opens up the books to the workers and says: How can we do better for you and how can we, as a team, do better, how can we as a company have the kind of performance and productivity that will recommend us to the world? And indeed they are now a world-class company. But because they provided the pens and pencils and they allowed the workers to have access to the company's financial records, the NLRB filed charges against the company. This is not the kind of thing that recommends America for leadership. It is the kind of thing that takes correction.

The ability of union workers to collaborate with employers is well ensconced. It is fought for by the unions and protected by the employers, recognized as a great benefit. But why should we limit that great benefit to 11 or 12 percent of our society, to the one out of nine workers in America that are in unions? Why not extend this benefit to all the workers in America saying that it is entirely appropriate for nonunion workers, as well as union workers, to be involved in collaborating and cooperating, in providing their good judgment of how best to improve the situation for workers and to improve the productivity and profitability of the business?

A great deal has been made by those who apparently resent this potential, saying how terrible it would be if the employer chose which workers to talk to. Frankly, most employers want to get a good sampling. But it seems to me that what they want to do is impose a rule that says there will be no talking at all for fear that someone might chose the wrong person with whom to talk. It totally ignores the fact that if there are really misrepresentations involved in the situation, there is always the opportunity for those in the plant to ask that there be a union certified. And that election would proceed under the new law that has been proposed here just as readily as it does under the old.

No. I do not think we would send our teams to Atlanta forbidding the players to talk to the coaches. We have too much sense to do that. No, I do not think that union companies are going to stop having team discussions between employees and the company owners and managers. They have too much sense to do that. And, no, I do not think that this Government should stand between the owners of corporations and their managers and the employees who work hard and want to succeed and want to be productive and keep them from talking to each other, because I believe the American people have too much sense to do that.

I urge my colleagues to extend this benefit which now inures to the benefit of one out of nine workers in America to the rest of the working population. Let us give everyone an opportunity to contribute to a winning effort, to succeed. That will maintain America's position as the most productive and most profitable and most rewarding place, not just for companies, but for citizens, not just for institutions, but for individuals. It is in fact a reason that America continues to draw people from around the globe. It is the fact that we have recognized the worth and value of individuals. And for us to deny their value in a commercial setting would be a substantial error which we must not make. Mr. President, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. I thank the Senator from Missouri for a very sincere and eloquent statement on a subject that he knows a great deal about. Senator ASHCROFT as both a Governor of Missouri and a Senator from Missouri has spent a great deal of time, as he mentioned, working in different companies around the State. He knows this issue well. He feels very passionately and is dedicated to it. I value greatly his help with this legislation.

AMENDMENT NO. 4438

(Purpose: To provide for a substitute amendment)

Mrs. KASSEBAUM. Mr. President, I now send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 4438.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the first world insert the following:

1. SHORT TITLE.

This Act may be cited as the ''Teamwork for Employees and Managers Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the escalating demands of global competition have compelled an increasing number of employers in the United States to make dramatic changes in workplace and employer-employee relationships;

(2) such changes involve an enhanced role for the employee in workplace decisionmaking, often referred to as ''Employee Involvement'', which has taken many forms, including self-managed work teams, quality-of-worklife, quality circles, and joint labor-management committees;

(3) Employee Involvement programs, which operate successfully in both unionized and nonunionized settings, have been established by over 80 percent of the largest employers in the United States and exist in an estimated 30,000 workplaces;

(4) in addition to enhancing the productivity and competitiveness of businesses in the United States, Employee Involvement programs have had a positive impact on the lives of such employees, better enabling them to reach their potential in the workforce;

(5) recognizing that foreign competitors have successfully utilized Employee Involvement techniques, the Congress has consistently joined business, labor and academic leaders in encouraging and recognizing successful Employee Involvement programs in the workplace through such incentives as the Malcolm Baldrige National Quality Award;

(6) employers who have instituted legitimate Employee Involvement programs have not done so to interfere with the collective bargaining rights guaranteed by the labor laws, as was the case in the 1930's when employers established deceptive sham ''company unions'' to avoid unionization; and

(7) Employee Involvement is currently threatened by legal interpretations of the prohibition against employer-dominated ''company unions''.

(b) PURPOSES.—The purpose of this Act is—

(1) to protect legitimate Employee Involvement programs against governmental interference;

(2) to preserve existing protections against deceptive, coercive employer practices; and

(3) to allow legitimate Employee Involvement programs, in which workers may discuss issues involving terms and conditions of employment, to continue to evolve and proliferate.

SEC. 3. EMPLOYER EXCEPTION.

Section 8(a)(2) of the National Labor Relations Act is amended by striking the semicolon and inserting the following: '': *Provided further*, That it shall not constitute or be evidence of an unfair labor practice under this paragraph for an employer to establish, assist, maintain, or participate in any organization or entity of any kind, in which employees who participate to at least the same extent practicable as representatives of management participate, to address matters of mutual interest, including, but not limited to, issues of quality, productivity, efficiency, and safety and health, and which does not have, claim, or seek authority to be the exclusive bargaining representative of the employees or to negotiate or enter into collective bargaining agreements with the employer or to amend existing collective bargaining agreements between the employer and any labor organization, except that in a case in which a labor organization is the representative of such employees as provided in section 9(a), this proviso shall not apply;''.

SEC. 4. LIMITATION ON EFFECT OF ACT.

Nothing in this Act shall affect employee rights and responsibilities contained in provisions other than section 8(a)(2) of the National Labor Relations Act, as amended.

Mrs. KASSEBAUM. Mr. President, the amendment that I am offering conforms the TEAM Act to the bill that was passed by the House of Representatives last fall. It just basically has three provisions that clarify the TEAM Act.

First, the amendment includes health and safety among those issues that may be discussed by teams. The original TEAM Act states that teams may discuss matters of mutual interest, including quality, productivity and efficiency issues. We always intended for teams to be able to discuss health and safety. Nevertheless, we wanted to make explicit that health and safety could be a topic of discussion. The amendment makes this clarification.

Second, the amendment specifically limits the TEAM Act's safe harbor to nonunion settings. Despite a construction clause in section 4 of the bill that should have assured organized labor that firms could not use teams to bypass a union, organized labor somehow apparently still believes that teams will undermine unions. That is not the case. Nevertheless, we make it abundantly clear that we do not intend teams to undermine unions and we state in plain English that the TEAM Act's safe harbor only applies to nonunion settings.

Finally, the amendment states that teams have equitable participation by workers and managers. The purpose of this provision is to clarify that workers may raise issues for discussion just as managers may raise issues as well. This is not meant to be a rigid formula for participation in the teams. It is simply meant to promote open dialog in teams. Many unionized workplaces suffer from an ''us-versus-them'' attitude, and we do not want teams to suffer the same problem.

This has been my concern with the amendment that was offered earlier by the Senator from North Dakota. There is a specificity and a rigidity written into the amendment that does not allow for the flexibility that I think Senator ASHCROFT spoke to with much clarity and eloquence.

Those are the main provisions of the substitute amendment that I am introducing.

For a point of clarification, Mr. President, I ask how much time is left on the Kassebaum amendment.

The PRESIDING OFFICER. There are 14 minutes and 10 seconds remaining.

Mrs. KASSEBAUM. On my side?

The PRESIDING OFFICER. Yes. And 30 minutes on the other side.

Mrs. KASSEBAUM. I appreciate that. I think that the Senator from Vermont wishes to speak again. I yield to him now however much time he wants out of that remaining time that is left. I yield to Senator JEFFORDS.

The PRESIDING OFFICER. The Senator from Vermont has 14 minutes remaining.

Mr. JEFFORDS. Mr. President, I am a cosponsor of the TEAM Act because I believe that cooperation between the employers and employees is critical to our future. The historical confrontation and conflict model of industrial relations will not serve us in the 21st century. Over 30,000 American companies use employer-employee involvement programs.

The TEAM Act addresses the concern that the National Labor Relations Board will discourage future efforts at labor-management cooperation. Specifically, in the Electromation decision, the NLRB held that employer-employee action committees that involved workers meeting with management to discuss attendance problems, no-smoking rules, and compensation issues constituted unlawful company dominated unions. Senator ASHCROFT went through a whole list of items which obviously should not have raised the concern of the NLRB.

Congress enacted section 8(a)(2) of the National Labor Relations Act forbidding employer domination of labor organizations, to eliminate the sham unions of the early 1930's. That was an appropriate and necessary act. The TEAM Act is a direct recognition that the world of work has changed since the 1930's, as I stated earlier. In that era, many in American business believed that success could be achieved without involving workers' minds along with their bodies. Today, recognition is widespread among business executives that employee involvement from the shop floor to the executive suite is the best way to succeed.

The employee involvement efforts protected by the TEAM Act are not intended to replace existing or potential unions—not intended. In fact, the language of the bill specifically prohibits this result. That is why it is hard for me to concede that the opposition has any merit.

The legislation allows employers and employee to meet together to address issues of mutual concern, including issues relating to quality, productivity, and efficiency. However, those efforts are limited by language that prohibits the committees or other joint programs from engaging in collective bargaining or holding themselves out as being empowered to negotiate or to modify collective bargaining agreements. It is very clear, that sets the line, you cannot do what the unions are worried about.

Mr. President, the essence of the matter is the definition of a labor organization under the NLRA is so broad that whenever employers and employees get together to discuss such issues, that act arguably creates a labor organization. In that situation, the existing language of section 8(a)(2) comes into play and the question becomes whether the employer has done anything to dominate or support that labor organization. It takes very little for an employer to be found to have violated section 8(a)(2).

In prior debates, my Democratic colleagues have disputed whether such

domination and support can be as little as providing meeting rooms or pencils and papers for the discussions. However, it is clear that at present no employer can be 100 percent certain that its dealings with a team comply with the law. The standard is simply too unclear. Thus, we have this bill before the Senate.

In our earlier debate on this issue, I heard Senator KENNEDY state that upwards of 80 percent of American companies are engaging in some form of teamwork or other cooperative workplace programs. His conclusion was that all this activity is taking place now without a change in the law, so there is no need to change the law. However, what that argument misses, Mr. President, is the fact that much of this activity is a technical violation of existing law.

While these programs may be doing wonders for the productivity of the companies where they are employed, any of them are no more than a phone call away from running afoul of the NLRA. What this does is places the unions in a position of intimidation, to try and force organization where they may not be able otherwise to get it.

It is no defense to an unfair labor practice charge that the program is working, that working conditions and productivity have improved, or that the company's bottom line has risen. None of that matters. If it is a technical violation of the antiquated rule, the NLRB will shut down the work team, fine the company, and force it to sign papers swearing never to do it again. The TEAM Act would prevent the continuation of these absurd results. That is all we are asking for here.

I recently was visited by a workplace team from my own State of Vermont. I am certain many of my colleagues in the Senate have had similar visits. There are successful teams operating throughout the country. That is the way it should be. We should keep it that way. The workers who visited me were from the IBM computer-chipmaking facilities in Burlington, VT. The more traditional top-down management style still prevails in most shifts and in most departments in that plant. However, on the night shift at this plant, the workers decided about 3 years ago to try a cooperative work team. They chose the name WENOTI for their group. That name is a combination of the words ''we, not I,'' to symbolize their focus on what is good for all, not just what is good for one.

When the team representatives came to my office a few months ago, they were as proud a group of employees as I have ever seen. The WENOTI team consistently leads the plant in all productivity and quality control measures. Moreover, they told me that their job satisfaction has risen directly to the relationship of their ability to contribute meaningfully to the successful completion of their jobs. They were participating, and they were seeing results.

IBM is a profitmaking organization, and it is not promoting employee involvement solely out of altruism, but, rather, IBM has come to the realization that employee involvement is vital to the company's bottom line. Doing so has the added dividend of giving employees a greater stake and a greater satisfaction in their job. Time and again, you hear employees praise companies that do not ask them to check their brains at the door.

So if affected employers and employees support this legislative effort, what is the problem? It comes as no great surprise that organized labor takes a dim view of it. Oddly enough, to do so, it also must take a dim view of the American worker.

Organized labor's arguments are based on the assumption that workers are not smart enough to know the difference between a sham union and a genuine effort to involve them in a cooperative effort to improve a product, improve the productivity, improve the profit, and hopefully, and most likely what will occur, enhance the ability of workers to see increased pay and benefits in their job.

In fact, Mr. President, the evil that section 8(a)(2) of the NLRA was designed to prevent was employees being fooled into thinking a union was in the plant to represent their interests when, in reality, it had been set up by the employer to act in the company's best interests. Employers may have been able to get away with that behavior in the 1930's when this provision was written, but I think today's workers are smarter and better informed than ever before. I think that is exactly why the employers are trying to harness their brains as well as their backs, and in the modern-day work force, the need for brains is greater every day.

Section 8(a)(2) needs to be amended to reflect the reality of today's work force. That is all that this bill is trying to do.

The real problem for unions is, under current law, they have a monopoly on employee involvement. Like the AT&T or the Vermont Republican Party of old, nobody likes to lose their monopoly. But consumers or voters or workers profit from choices in competition, not from a static response to a changing environment.

This is clearly the trend of the future. We should not allow an outmoded interpretation of law written for an early era get in the way of this Congress. I urge my colleagues to support the TEAM Act. I urge them to protect the future of this Nation by allowing us to be cooperative and to be productive in the world's economy so we can continue our domination in the world economy.

Mrs. KASSEBAUM. Mr. President, I appreciate very much the efforts of Senator JEFFORDS over a long period of time. He has been valuable in committee as well as making a case on the floor. I thank him.

The Senator from Virginia [Mr. WARNER] desires to speak. Until he is here, 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. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 4437, AS MODIFIED

Mr. KENNEDY. Mr. President, on behalf of Senator DORGAN, I send this modification of this amendment to the desk.

The amendment (No. 4437), as modified, is as follows:

Strike all after the word ''SHORT'' on page 2, line 1, and insert the following:

TITLE.

This Act may be cited as the ''Teamwork for Employees and Management Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the escalating demands of global competition have compelled an increasing number of American employers to make dramatic changes in workplace and employer-employee relationships;

(2) these changes involve an enhanced role for the employee in workplace decision-making, often referred to as ''employee involvement'', which has taken many forms, including self-managed work teams, quality-of-worklife, quality circles, and joint labor-management committees;

(3) employee involvement structures, which operate successfully in both unionized and non-unionized settings, have been established by over 80 percent of the largest employers of the United States and exist in an estimated 30,000 workplaces;

(4) in addition to enhancing the productivity and competitiveness of American businesses, employee involvement structures have had a positive impact on the lives of those employees, better enabling them to reach their potential in their working lives;

(5) recognizing that foreign competitors have successfully utilized employee involvement techniques, Congress has consistently joined business, labor, and academic leaders in encouraging and recognizing successful employee involvement structures in the workplace through such incentives as the Malcolm Baldrige National Quality Award;

(6) employers who have instituted legitimate employee involvement structures have not done so to interfere with the collective bargaining rights guaranteed by the labor laws, as was the case in the 1930s when employers established deceptive sham ''company unions'' to avoid unionization; and

(7) the prohibition of the National Labor Relations Act against employer domination or interference with the formation or administration of a labor organization has produced uncertainty and apprehension among employers regarding the continued development of employee involvement structures.

(b) PURPOSES.—It is the purpose of this Act to—

(1) protect legitimate employee involvement structures against governmental interference;

(2) preserve existing protections against deceptive, coercive employer practices; and

(3) permit legitimate employee involvement structures where workers may discuss issues involving terms and conditions of employment, to continue to evolve and proliferate.

SEC. 3. LABOR PRACTICES.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end thereof the following new subsection:

''(h)(1) The following provisions shall apply with respect to any employees who are not represented by an exclusive representative pursuant to section 9(a) of 8(f):

''(A) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to meet with the employees as a group, or to meet with each of the employees individually, to share information, to brainstorm, or receive suggestions or opinions from individual employees, with respect to matters of mutual interest, including matters relating to working conditions.

''(B) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to assign employees to work units and to hold regular meetings of the employees assigned to a work unit to discuss matters relating to the work responsibilities of the unit. The meetings, may, on occasion, include discussions with respect to the conditions of work of the employees assigned to the unit.

''(C) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to establish a committee composed of employees of the employer to make recommendations or determinations on ways of improving the quality of, or method of producing and distributing, the employer's product or service and to hold regular meetings of the committee to discuss matters relating to the committee. The meetings may, on occasion, include discussions with respect to any directly related issues concerning conditions of work of the employees.

''(2) The provisions of paragraph (1) shall not apply if—

''(A) a labor organization is the representative of the employees as provided in section 9(a);

''(B) the employer creates or alters the work unit or committee during any organizational activity among the employer's employees or discourages employees from exercising the rights of the employees under section 7;

''(C) the employer interferes with, restrains, or coerces any employee because of the employee's participation in or refusal to participate in discussions with respect to conditions of work, which otherwise would be permitted by subparagraphs (A) through (C) of paragraph (1); or

''(D) an employer establishes or maintains a group, unit, or committee authorized by subparagraph (A), (B), or (C) of paragraph (1) that discusses conditions of work of employees who are represented under section 9 without first engaging in the collective bargaining required by this Act.

''(3) An employee who participates in a group, unit, or committee described in subparagraph (A), (B), or (C) of paragraph (1) shall not be considered to be a supervisor or manager because of the participation of the employee in the group, unit, or committee.''.

Mr. KENNEDY. Mr. President, I wanted to just speak briefly on the measure that is before us. I see other Senators who want to address the Senate this evening. So I will only take a few moments.

But during the course of the discussion about what is legitimate and what is not legitimate, under existing laws there are a number of items that were raised, most of which were raised in a previous debate and discussion on the TEAM Act. We asked the General Counsel of the National Labor Relations Board to make a comment on them.

I ask unanimous consent that his complete letter to me be printed in the RECORD.

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

U.S. GOVERNMENT,
NATIONAL LABOR RELATIONS BOARD,
Washington, DC, May 14, 1996.

Hon. EDWARD M. KENNEDY,
Senator, U.S. Senate, Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR KENNEDY: This is in response to your request of May 11, 1966 for my assessment of the accuracy of certain claims concerning the proper interpretation of Section 8(a)(2) of the National Labor Relations Act (NLRA) with reference to S. 295 (the ''Team Act''). As General Counsel of the National Labor Relations Board (NLRB), it is my responsibility to investigate alleged violations of the NLRA and prosecute meritorious claims. The responses to the questions you posed set out below are based on my considered judgment of the proper interpretation of Board cases. They constitute my view of the applicable law, as General Counsel, and do not constitute an opinion of the Board or its individual members.

1. An organization whose purpose is to deal with an employer to discuss quality, productivity, and efficiency would not constitute a labor organization, provided it did not also deal with the employer concerning grievances, labor disputes, wages, rates of pay, hours, or working conditions, or exist in part for such purposes.

Assuming the employee organization did deal with the employer concerning working conditions and thus constituted a labor organization, the employer would not ''dominate'' such an organization simply by providing it with office supplies and meeting space. ''Domination'' is typically found where an employer exercises a strong influence over the organization, by such actions as initiating the committee, presiding over meetings, selecting the employee representatives, or selecting the topics to be discussed. See *Electromation, Inc.*, 309 NLRB 990, 995 (1992), enfd., 35 F.2d 1148 (7th Cir. 1994).

The NLRB has also made it clear that an employer would not violate Section 8(a)(2)'s proscription on providing unlawful ''support'' to a labor organization simply by providing a meeting room or office supplies, provided it did not do so in the context of other acts of domination, interference, or support of the organization. *Keeler Brass Co.*, 317 NLRB 1110 (1995); *Electromation*, 309 NLRB at 998 n. 31; *Duquesne University*, 198 NLRB 891, 891 & n. 4 (1972). See, for example, *Sunnen Products, Inc.*, 189 NLRB 826 (1971)

2. A ''labor organization'' under the NLRA is a body in which employees participate and deal with the employer concerning ''grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.'' Discussions of quality, productivity and efficiency do not necessarily constitute dealing with the employer on conditions of employment within the statutory definition.

3. The NLRA does not authorize the NLRB to fine companies for violating the NLRA. The appropriate remedy for a violation of Section 8(a)(2) would require the employer to cease any unlawful assistance to or disestablish an unlawfully dominated organization and reestablish the status quo ante.

4. Talking to employees does not constitute dealing. The NLRB has made clear that nothing in the NLRA prevents an employer from encouraging its employees, for example, to become more aware of safety problems in their work, or from seeking suggestions and ideas from its employees. Therefore, brainstorming groups, whose purpose is simply to develop a range of ideas, are not engaged in dealing. Similarly, a committee that exists for the purpose of sharing information with the employer, but makes no proposals to the employer, is not ordinarily engaged in dealing. *E.I DuPont & Co.*, 311 NLRB 893, 894, 897 (1993).

Dealing requires a pattern or practice whereby employees make proposals to management and management responds to those proposals. Where there is no dealing, there is no labor organization and, therefore, no unlawful domination of a labor organization. Of course, where the employees are represented by a collective bargaining agent, the employer is required to discuss bargainable matters through the representative.

5. Nothing in the NLRA prohibits employees from talking to their employer about tornado warning procedures. Talking to employees does not constitute dealing between employees and their employer. The NLRB's decision in *Dillon Stores*, 319 NLRB No. 149 (1995), does not hold that it is illegal for workers to talk with their employers about tornado warning procedures. That case held that the employer unlawfully dominated employee committees that presented to management proposals and grievances on virtually every possible aspect of the employment relationship. Although at one meeting there was a question and answer about tornado warning procedures, that topic was wholly peripheral to the NLRB's decision. The decision does not describe the nature of the question or answer. Nor does it even remotely suggest that that exchange was relevant to the finding that the committee existed for the purpose of dealing with the employer in that case, or that any discussion about that subject would necessarily constitute dealing, or be impermissible.

6. Nothing in the NLRA prevents employers from seeking suggestions and ideas from employees. Therefore, it does not prevent an employer from seeking such input from employees about how to settle a fight among employees.

7. Nothing in the Act prohibits an employer from talking to employees, who are not represented by a union, about extending lunch breaks. As already discussed, talking to employees does not constitute dealing.

The NLRB's decision in *Atlas Microfilming Division of Sertafilm, Inc.* 267 NLRB (1983), enfd. 753 F.2d 313 (3d Cir. 1985), is not to the contrary. That case did not involve a violation of Section 8(a)(2) of the NLRA, nor did the NLRB find that an employer could not discuss extending the lunch hour with unrepresented employees. There, the NLRB found that the employer violated Section 8(a)(5) and (1) of the NLRA by unilaterally extending the lunch break an additional 15 minutes, at a time when the employer had an obligation to bargain with a union that was the exclusive representative of the employer's employees.

8. It is not illegal for an employer to have a dialog with his employees about flexible work schedules. Where employees are simply providing information or ideas, rather than making proposals as part of a pattern or practice of making proposals, there is not dealing between the employees and the employer. Further, where employees seek to make proposals in the context of an organization over which they have control, there is no unlawful employer domination of organization.

The NLRB's decision in *Weston & Broker Co.* 154 NLRB 747,763 (1965), enfd. 373 F.2d 741 (14th Cir. 1967), did not make it against the

law for employees to discuss working arrangements with their employers. The employer in that case did not attempt to discuss work arrangements with employees. Rather, in that case, the employer unilaterally changed employees' hours of employment, without providing notice to the union representing the employees, or bargaining with the union, and it was those actions that the NLRB found to be a violation of the employer's obligation to bargain under Section 8(a)(5) of the NLRA.

9. It is not illegal for an employer to seek input from employees concerning improving productivity. An employer is prohibited only from dominating, interfering with, or supporting a labor organization. A labor organization is one that exists in whole or in part for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, as set out in Section 2(5) of the NLRA. When discussions about productivity do not implicate the subjects listed in the statutory definition of labor organization, Section 8(a)(2) of the NLRA is inapplicable. See *Vons Grocery Company* 320 NLRB No. 5 (December 18, 1995) (employee participation group devoted to considering specific operational concerns and problems did not have a pattern or practice of making proposals to management on subjects listed in Section 2(5), and therefore was not a labor organization).

10. An employer can talk to employees about matters such as day care centers, softball teams, the employee lounge, vacations, dress codes, and parking regulations. Employees can provide information or ideas without engaging in dealing under the NLRA. Further, employees can made proposals through an organization, to which the employer may respond, where the employees have control of the structure and function of the organization.

I reiterate that these responses represent only my considered judgment of the applicability of Board precedent to the questions you pose.

Sincerely,

FRED FEINSTEIN,
General Counsel.

Mr. KENNEDY. Mr. President, Senators have pointed to the recent administrative law judge decision relating to the Polaroid Corp. as an example of what is wrong with the National Labor Relations Act. I disagree with those Senators. Polaroid illustrates what is right with the NLRA and wrong with the TEAM Act.

In Polaroid the employer created something it called the Employee Owners Influence Council to replace the Polaroid's Employees' Committee which the employer unilaterally disbanded. Polaroid got rid of the committee when advised that the committee was a labor organization whose officers, under the Landrum-Griffin Act, must be elected. Polaroid's CEO unilaterally disbanded the Employees' Committee because he believed that a companywide election would be disruptive, divisive, and contrary to the collaborative heritage that we value at Polaroid.

When he disbanded the Employees Committee, the CEO expressed concern that this could leave a vacuum in the company and could lead to a union organizing drive. Polaroid therefore set about to create an alternative structure that would be compatible with our corporate values. The administrative law judge found that in creating this structure, Polaroid was motivated in part by its opposition to any union, or union not dominated by the company and by its concern that in the absence of a company dominated structure, the resulting void might leave an opening for such unwanted union.

Polariod selected the members of the Employee Owners Influence Council, controlled the agenda and established all the ground rules for its proceedings. Polaroid made clear to the employees, as the ALJ found, that if they wished to have any voice in shaping company policy and practices they had best do so through the mechanism of EOIC.

Polariod sought to circumvent §8(a)(2) in creating the EOIC by transparent artifices. The members of the EOIC were told that they reflected, but did not represent the views of other employees—although they could report on what I have heard. The members of the EOIC likewise were told not to make recommendations, although they could respond to company proposals. And the members of the EOIC did not arrive at majority decisions, although polls were taken of the EOIC members. The ALJ had no trouble seeing through these word games and found that the EOIC was, in fact, an employee representation committee.

In sum, the Council at issue in Polaroid was unlawful because it violated the core purpose of §8(a)(2): it deprived employees of the opportunity to determine for themselves how they wish to be represented and to choose their own representatives and substituted, instead, an employer controlled system of employee representation. S. 295 would, indeed, allow such employer domination. That is why S. 295 should be defeated.

Mr. President, I would like to just very quickly mention for the Members some of the items that were brought up during this afternoon and that had been brought up previously, and his response to them.

The NLRB has made it clear that employers would not violate section 8(a)(2)'s proscription on providing unlawful support to a labor organization simply by providing a meeting room or office supplies, provided it did not do so in the context of other acts of domination, interference, or support of the organization.

The issue about employers talking to their employees about matters of mutual interest, and talking to employees, does not constitute dealing. The NLRB has made clear that nothing in the NLRA prevents an employer from encouraging its employees, for example, to become more aware of safety programs in their work, or from seeking suggestions and ideas from employees.

Therefore brainstorming groups whose purpose is simply to develop a range of ideas are not engaged in dealing. Similarly, a committee that exists for purposes of sharing information with the employer but makes no proposal to the employer is not ordinarily engaged in dealing.

Nothing in the NLRA prohibits employees from talking to their employer about tornado warning procedures. Talking to employees does not constitute dealing with employees and their employer.

That issue was raised this afternoon as well.

Nothing in the NLRA prevents employers from seeking suggestions and ideas from employees. Therefore it does not prevent an employer from seeking such input from employees in how to settle a fight among employees.

That was suggested to be illegal.

Nothing in the Act prohibits an employer from talking to employees who are not represented by a union about extending lunch breaks. As already discussed, talking to employees does not constitute dealing.

I believe that that activity was suggested as violating the law.

It is not illegal for an employer to have a dialog with his employees about flexible work schedules. Where employees are simply providing information or ideas, rather than making proposals as part of a pattern or practice of making proposals, there is no dealing between the employees and the employer. Further, where employees seek to make proposals in the context of an organization over which they have control, there is no unlawful employer domination of that organization.

The NLRB's decision in Weston & Brooker did not make it against the law for employees to discuss working arrangements with their employers. The employer in that case did not attempt to discuss work arrangements with employees. Rather, in that case, the employer unilaterally changed employees' hours of employment without providing notice to the union representing the employees, or bargaining with the union, and it was those actions that the NLRB found to be a violation of the employer's obligation to bargain under section 8(a)(5) of the NLRA.

There has been references to that earlier in the afternoon. It is important to put it in perspective, and I believe this comment does.

It is not illegal for an employer to seek input from employees concerning improving productivity. An employer is prohibited only from dominating, interfering with, or supporting a labor organization. A labor organization is one that exists in whole or in part for the purposes of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, as set out in section 2(5) of the NLRA. Where discussions about productivity do not implicate the subjects listed in the statutory definition of labor organization, section 8(a)(2) is inapplicable.

Mr. President, I include the whole letter. It is a very good statement. What we have tried to do is to take a number of the questions that were raised during earlier debate by a number of our colleagues and asked for an explanation and for an understanding by the chief counsel as to the conditions of the law. I think if people take the time to review the letter and put it against what has been suggested they would have a clearer idea.

Finally, I come back, Mr. President, to say, as I mentioned from our previous charts earlier today, we have, No.

1, seen where this kind of cooperation is taking place in 30,000 businesses across the country. The number of cases that have been brought each year is virtually a handful. This is not a problem. What we are doing with, I believe, with the consideration of the TEAM Act is that rather than get involved in cooperative kinds of endeavors, it is only going to provide increasing kinds of tension.

When the employers know their rights and the employees know their rights and they are able to work that out, then we have an increasing understanding and increasing productivity. When you have exploitation of one side by the other, you have tension and lack of cooperation. We find that today there is that increasing cooperation and we support that and believe that that ought to be the case. But we are strongly opposed to the idea that under the label of cooperation or some idea of ''team,'' we are going to substitute carefully selected employees by the employers to be the effective negotiators for employees in the areas of conditions and wages. That is stated not to be the purpose of it. If it is not the purpose of it, I do not believe this legislation is really needed, and for those reasons and reasons outlined earlier in the day I hope the legislation would not be approved.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. I would respectfully disagree with the ranking member of the Labor and Human Resources Committee; there is a problem. And while there may be only 1 case out of 1,000 perhaps that is a problem, it has, as I have said earlier, a chilling effect. And the example I gave this afternoon was of the Polaroid decision which was in June and was I think an enormous problem and an example of the effect and influence on everyone.

Point of inquiry. How much time is remaining for my amendment, or on my side?

The PRESIDING OFFICER. There are 3 minutes 2 seconds.

Mrs. KASSEBAUM. I yield to the senior Senator from Virginia that amount of time plus any leader time he would desire.

Mr. WARNER. Mr. President, plus what other time?

Mrs. KASSEBAUM. Any amount of leader time——

Mr. WARNER. I thank the Senator.

Mrs. KASSEBAUM. The Senator from Virginia desires.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I am here as, I believe, one of the strongest supporters of this proposed legislation. I am privileged to serve on the Small Business Committee. Chairman BOND and others had hearings at which I participated.

Mr. President, before the distinguished Senator from Massachusetts leaves the floor, I wonder if I might ask him a question on my time.

Mr. President, in the course of the hearing before the Committee on Labor, chaired by the distinguished Senator from Kansas and the distinguished Senator from Massachusetts as the ranking member, I put forth the suggestion that I find this proposed legislation a first cousin to the suggestion box which is found in industrial plants and offices all across America. I have great difficulty in trying to determine, if you can drop a written suggestion in the box, why can't one or two employees verbally suggest to their employers—whether it is, say, a day care center or needed improvements in the restaurant—why can they not do that and then help the employer implement it? It seems to me so elementary.

Mr. KENNEDY. Mr. President, I respond, they cannot only do it but they do much more in the 30,000 businesses across the country that the majority report mentions. If you take the State of Washington and the State of Oregon, the two clearest States, they have been able to save in State workman's compensation hundreds of millions of dollars, over billions of dollars have been realized as a direct result of this kind of cooperation. We are all for that. As we pointed out, this is a problem that does not exist.

Here is a map showing the virtual nonexistence of these cases before the NLRB. No one in the State of Virginia has brought a successful case under this section in the last 4 years. And if the Senator is here tonight to say that there is great confusion or a great problem or trouble among the employers, I would like to know about it because no one has brought a case to the NLRB under this particular section.

Mr. WARNER. Mr. President, I would say in the course of the hearing in the Small Business Committee, we had employers come up who went ahead and violated the law knowingly and take the risk of being sued, and one of them was a Virginia firm.

Mr. KENNEDY. The only point is that this is 1992 through 1995 and we do not have those cases recorded. I have gone over in careful detail the total number of cases over the period of the last 10 years that have been brought. I will bring those charts back. I know the Senator wants to address the Senate.

We are for cooperation. You have the examples of 30,000 different employers where that is taking place now. We have, I believe it is 227 cases that have been brought in 4 or 5 years as compared to the 13,000 illegal firings of workers in Virginia and around the Nation and the remedies that have been out there to provide back pay and reinstatement. This is numbers going in the thousands.

It seems to me, if we are going to talk about doing something to improve the climate, we ought to be trying to look out for workers' rights. In 1994, there were 227 charges of 8(a)(2) violations of all kinds—not just those that are the subject of S. 295. In 1994—as you know, Electromation was 2 years before, in 1992—there were 87 cases. You look at those where they have remedies for reinstatements by employers, 7,900; remedies for back pay because of illegal activity, 8,500, that is a problem.

Mr. WARNER. Mr. President, I disagree with my colleague. I find this law is always a chilling effect, a very severe chilling effect, on the ability of the workers of today to implement their suggestions with management.

If I might pose a second question to my good friend and colleague, this law was put on the books in 1935. And how well we recall the profile of the work force in those days, having less benefit of education, having grown up, father and son, in an atmosphere where the workers were told what to do by the managers who were not looking for any suggestions.

That labor force, I say to my good friend, has changed dramatically since 1935. Today, it is a well-educated work force. It is a work force that wants to participate and have a voice in their organization, firm, manufacturing company, or whatever the case may be, becoming more competitive; competitive domestically, competitive internationally. The concept in this legislation is spreading through Asia. My good friend is aware of that.

I would be interested in his views in comparing the work force of 1935 to the work force of 1995, 1996, 1997; and whether or not that alone, that profile, that change in the individual, does not dictate that the Congress should awaken to change this archaic law?

Mr. KENNEDY. I would answer it this way, Mr. President. The greatest danger to the workers in 1935 was company-dominated unions—company-dominated unions. Anyone who understands the industrial history of this country understands that they were the principal vehicles which were used to deny workers their legitimate rights.

All I am saying here is let us not repeat that unfortunate history. This has nothing to do with the education or the ability of the employees. It is: Let us not repeat history, to go back to company-dominated unions. And that is the danger of this proposal.

The final point I make is this. I know the Senator is familiar with the majority report of the committee. This is the majority report. This is the majority report that supports the TEAM Act. Citing the Commission on the Future of Worker-Management Relations, their survey found 75 percent of responding employers, large and small, had incorporated means of employee involvement in their operation. Among the larger employers, those with 5,000 employees or more, the percentage was even higher—96 percent. ''It is estimated that as many as 30,000 employers currently employ some form of employee involvement or participation.''

Wonderful. Amen. You have it going already and you have no complaints

about it. Meanwhile, you still have the growing numbers of workers being thrown out and being reinstated because of violations of the law, because of illegal activity from many employers, and also remedies for back pay.

The point I am making is we have those, even in the majority report, taking place. We are all for it. The area that is proscribed is exactly the area which the Senator has referred to, and that is the ability of company employers making decisions about which employees are going to negotiate and represent employees to negotiate with the employer about wage and working conditions. That is proscribed. That is what we are concerned about.

I know Senator KASSEBAUM has spoken eloquently, and it is not her desire to substitute the company-designated employees for that purpose. But I daresay we are going right down the road on it. If we are able to make progress in the other areas, I think we ought to continue to make progress, rather than come up with a solution for a problem that I do not think really exists. But I thank my colleague.

Mr. WARNER. I thank the distinguished Senator from Massachusetts. I feel the workers today are far too intelligent, far too mobile, to allow that. They will move on to another situation unless they feel their intelligence is being utilized just as fully as their brawn and other attributes.

I feel the TEAM Act is a common sense measure designed to eliminate a Government-imposed restraint on America's competitiveness. This country, our companies, and our workers must increasingly compete in a world economy. Every shortcoming of a company, whether it is bloated management, undereducated employees, or excessive debt, can doom that company today. This reality faces high-tech firms with Asian competition and traditional industries struggling against the developing nations. It is a one-world economy, and I commend the managers of this bill for bringing forth this legislation to free the bonds and loosen the shackles and restraints on the American worker today to get out and compete with workers all over the world. How different that was in 1935 when, incidentally, this country regrettably was in a period of isolation and our markets were within our own States or across State borders.

Then the Wagner Act. That act presently throws into doubt all kinds of employee involvement programs. It was enacted in 1935 when employees were expected to do exactly what they were told. ''You are here to be told what to do, not listened to; to be seen, not to be heard from.''

''Theirs not to reason why, Theirs but to do or die'' to quote Alfred, Lord Tennyson. That was over 60 years ago, when almost every business required a lot more physical labor than creative thinking. That was when the struggles between labor and management were seen as zero-sum battles, where laborers fought for every last crumb that their industrial bosses may have given them. Those days are behind us, fortunately.

Now we are in 1996 and everybody knows that business must have the most effective, productive, and satisfied employees to compete in the world economy. Which plant is going to be more successful, the one where management calls all the shots and simply barks orders at the employees? No. It is the company where employees' ideas and suggestions are encouraged, listened to, respected, and utilized. It does not take an expert on business productivity to know that employee involvement is the key to our survival in this one world market.

I was fortunate to chair a hearing in the Committee on Small Business on the TEAM Act. The hearing was held in April of this year. We heard testimony from experts but we also heard testimony from the laborers themselves. I remember one man proudly wore his blue collar outfit.

One expert witness, Edward Potter, of the Employment Policy Foundation, testified about detailed studies concerning increases in productivity made by American companies over the past few decades. Three-quarters of these increases—I will repeat that—three-quarters of the increases in the productivity were attributable to employee involvement in their respective workplaces. The team concept was far more responsible for productivity improvements than, indeed, education, capital investment, or work experience. Without employee involvement we have little improvement in productivity. And without increases in productivity, we are doomed in this one-world market.

I believe in the smarts and talents of the American worker. Companies and employees in my Commonwealth of Virginia have shown remarkable ingenuity in using team concepts to take on world competition. The AMP Corp., a worldwide corporation which manufactures electrical connectors, has a plant in Roanoke, VA, which provides several examples of this creativity necessary to meet the challenge of foreign competition.

One team of workers went with their managers to another AMP facility and learned a new stamping process. Implementing this process in Roanoke increased output so much that 20 new jobs were created.

Another team of workers was assigned the task of comparing AMP's production processes to foreign competitors, a job previously done solely by management. The employee team was better able to see how inventory levels, technology changes, and production cycles affected productivity. As a result, quality and delivery is better, prices are lower, and the employees have increased job security.

Last, the community education team reaches out to local schools. Through this team, AMP has been able to recruit new workers from the Roanoke area with the necessary technology training rather than recruiting out of the area.

Many Virginia companies have had similar success stories. The team concept is one that works and it is astonishing that outdated laws cast doubt on the legality of programs that benefit both the company and its employees.

I would like to address for a minute the amendments which will be offered by the other side of the aisle. These amendments would require that all teams be formed only after formal elections by the employees affected by the decisions of the team. This is micromanagement of the workplace at its worst: the present situation where the legality of teams is unclear is a better one than what these amendments would create.

Imagine the logistical nightmares of having to hold a formal election every time more than one employee wants to discuss something with a supervisor. Take a 20-person printing company where Fred and Jane are two of 18 nonmanagement workers. Their work stations are next to a piece of equipment emitting fumes where ventilation around that area is poor. As a result, Fred and Jane would like to have the machine moved to an empty area with an air duct. Under these amendments, the 18 workers would have to hold a formal election before Fred and Jane could suggest to the owner that the equipment be moved. This election no doubt would have to comply with NLRB regulations about the notice of the election, timing, secrecy provisions, and the like. Is this really necessary? Can't we trust the 18 workers to be watchdogs of their own needs? Can't we trust Fred and Jane to make reasonable suggestions to the owner? Or do we have to micromanage every decision made in the workplace? I think the answer is clear.

I believe enactment of the TEAM Act without harmful amendments would be a boon to American industry and American workers. Only by allowing them to compete freely in the world economy can we expect our companies to be successful and their employees well-paid and satisfied. I urge my colleagues to join me in sending the TEAM Act to the President.

I thank the distinguished chairman of the committee, the Senator from Kansas, the manager of this legislation, for allowing me to participate in this debate. I once again extend my strongest congratulations for your leadership in seeing this legislation move forward and, indeed, to our fellow colleague, the Senator from Missouri, Senator BOND, the chairman of the Small Business Committee.

I yield the floor.

Mrs. KASSEBAUM. I thank the Senator from Virginia who knows well the importance of this legislation to the effectiveness and the well-being of employees.

As a member of the small business community, I think he has addressed

very effectively just how much it would be an asset to employees, as well as employers, to have some certainty about their ability to communicate and work together in the workplace.

Mr. WARNER. Mr. President, I thank my distinguished colleague.

MORNING BUSINESS

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, July 8, 1996, the Federal debt stood at $5,154,104,445,604.38.

On a per capita basis, every man, woman, and child in America owes $19,430.90 as his or her share of that debt.

CABLE INDUSTRY OFFERS SCHOOLS FREE INTERNET ACCESS

Mr. PRESSLER. Mr. President, today, I had the pleasure of participating in the launch of Cable's High-Speed Education Connection, the cable industry's latest contribution to the American educational system and America's children. At the heart of this initiative is a commitment by the cable industry to offer every elementary and secondary school in the country that is passed by cable, basic high-speed Internet access via cable modems—free of charge.

For years, the computer industry has offered greatly discounted pricing on hardware and software to schools, universities, teachers, and students. This same industry is arguably both the most successful and the least regulated in the United States.

As chairman of the Senate Committee on Commerce, Science, and Transportation, one of my primary goals in authoring the Telecommunications Act of 1996 was to apply this competitive formula to the telecommunications industry. I am convinced it is a formula for success. This formula creates a world in which different telecommunications companies can compete with each other in the delivery of new services to American consumers.

I was especially interested in breaking up the local exchange monopolies and encouraging new entrants to provide alternative telephone services and television programming. I congratulate the cable industry for rapidly taking the lead in demonstrating how this newly competitive environment accelerates the provision to students and teachers of access to the latest and best educational technologies.

What will be the result? Elementary and secondary schools will be wired for cable. They also will be equipped with modems maximizing the delivery of high-speed digital services. These developments very positively impact the future of learning—including the development of distance learning—which particularly helps rural States like South Dakota. In fact, I understand that among the first cable markets targeted for these new services will be Rapid City, SD. These wired schools will expose young generations to some of the best of cable technology. They will create sophisticated users of the next generation of cable information services. They will help create masters of the information age.

So, what we witness here is not the result of Government's decision as to which technology should be mandated for low cost delivery to schools. We witness instead the initial stages of a competition for the loyalty and attention of future adult generations in their decisions about which services best accommodate their needs.

Mr. President, I am pleased that the cable industry is taking the initiative today to provide American schools—free of charge—with high-speed access to the Internet using cable modems. Cable's High-Speed Education Connection builds on the foundation established by Cable in the Classroom, an ongoing multimillion dollar educational project that provides more than 74,000 schools nationwide with free access to cable systems and more than 6,000 hours of commercial-free educational programming each year. The cable industry is to be commended for being a leader in providing educational benefits and network access to the communities it serves.

I encourage other companies and industries to follow the example the cable industry announced today and applaud what likely is only the first step by the cable industry to improve the quality and availability of education technology.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT, OCEAN SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION FOR FISCAL YEARS 1994 AND 1995—MESSAGE FROM THE PRESIDENT—PM 157

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

I am pleased to submit the Biennial Report of the Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA) for fiscal years 1994 and 1995. This report is submitted as required by section 316 of the Coastal Zone Management Act (CZMA) of 1972, as amended, (16 U.S.C. 1451, et seq.).

The report discusses progress made at the national level in administering the Coastal Zone Management and Estuarine Research Reserve Programs during these years, and spotlights the accomplishments of NOAA's State coastal management and estuarine research reserve program partners under the CZMA.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 9, 1996*.

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING FOR FISCAL YEAR 1995—MESSAGE FROM THE PRESIDENT—PM 158

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

In accordance with the Communications Act of 1934, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting (CPB) for Fiscal Year 1995 and the Inventory of the Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1995.

Since 1967, when the Congress created the Corporation, CPB has overseen the growth and development of quality services for millions of Americans.

This year's report highlights ways the Corporation has helped millions of American families and children gain new learning opportunities through technology. At a time when technology is advancing at a pace that is as daunting as it is exhilarating, it is crucial for all of us to work together to understand and take advantage of these changes.

By continuing to broadcast programs that explore the challenging issues of our time, by working with local communities and schools to introduce more and more children to computers and the Internet, in short, by honoring its commitment to enriching the American spirit, the Corporation is preparing all of us for the 21st century.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 9, 1996*.

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–3253. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, a rule entitled ''The Tobacco Loan Program,'' received on June 26, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3254. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled ''Spearmint Oil Produced in the Far West,'' received on June 26, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3255. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, a rule entitled ''Sheep Promotion, Research, and Information Program,'' received on June 27, 1996; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3256. A communication from the Director of the Office of Civilian Radioactive Waste Management, Department of Energy, transmitting, pursuant to law, the annual report for fiscal year 1995; referred jointly, pursuant to Public Law 97–425, to the Committee on Energy and Natural Resources, and to the Committee on Environment and Public Works.

EC–3257. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–3258. A communication from the Assistant Attorney General, transmitting, pursuant to law, the report entitled ''Attacking Financial Institution Fraud''; to the Committee on Banking, Housing, and Urban Affairs.

EC–3259. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, a rule relative to bid acceptance, (RIN1010–AC18) received on June 27, 1996; to the Committee on Energy and Natural Resources.

EC–3260. A communication from the Director of the State and Site Identification Center, Environmental Protection Agency, transmitting, pursuant to law, the report of a final rule entitled ''National Priorities List for Uncontrolled Hazardous Waste Sites,'' (FRL–5520–2) received on June 20, 1996; to the Committee on Environment and Public Works.

EC–3261. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a final rule entitled ''Regulation of Fuels and Fuel Additives,'' (RIN2060–AG06) received on June 27, 1996; to the Committee on Environment and Public Works.

EC–3262. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of four rules entitled ''Requirements for Preparation, Adoption, and Submittal of Implementation Plans,'' (FRL5530–4, 5529–3, 5527–4, 5531–6) received on June 28, 1996; to the Committee on Environment and Public Works.

EC–3263. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of nine rules entitled ''General Procedures to OPT out of the Reformulated Gasoline Requirements,'' (FRL5528–6, 5363–2, 5358–8, 5372–8, 5369–7, 5358–7, 5382–1, 5381–5, 5381–2) received on June 27, 1996; to the Committee on Environment and Public Works.

EC–3264. A communication from the Acting Administrator, General Services Administration, transmitting, a report relative to a lease prospectus for the Federal Bureau of Investigation; to the Committee on Environment and Public Works.

EC–3265. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Land Disposal Restrictions Phase III-Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners,'' (RIN2050–AD38) received on July 2, 1996; to the Committee on Environment and Public Works.

EC–3266. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of State Programs and Delegation of Federal Authorities,'' (FRL5531–3) received June 2, 1996; to the Committee on Environment and Public Works.

EC–3267. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, the report of an informational copy of a lease prospectus; to the Committee on Environment and Public Works.

EC–3268. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report relative to Uranium purchases for calendar year 1995; to the Committee on Energy and Natural Resources.

EC–3269. A communication from the Deputy Associate Director for Compliance, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to refunds of offshore lease revenues; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–646. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Appropriations.

''HOUSE CONCURRENT RESOLUTION NO. 31

''Whereas, approximately six hundred ninety-seven thousand United States service members were deployed to the Persian Gulf in the 1990–1991 Operations Desert Storm/Desert Shield conflict; and

''Whereas, while the vast majority of these troops returned home healthy, a significant number of individuals who served in this conflict have reported persistent symptoms that they believe are related to their experience in the war, collectively known as Persian Gulf War syndrome; and

''Whereas, most common among these symptoms are fatigue, joint pain, headache, sleep disturbances, loss of memory, and rash; and

''Whereas, much more serious conditions have also been linked to Gulf War service, such as upper respiratory disease, birth defects in infants born to Gulf War veterans, mild cases of acute diarrhea, and cutaneous and viscerotropic leishmaniasis, causing death in some cases; and

''Whereas, recently, Dr. Howard B. Urnovitz, a research microbiologist from California, testified before the United States House of Representatives Subcommittee on Human Resources and Intergovernmental Relations that there is an underlying problem with the immune response of Persian Gulf War military to the polio vaccine, which suggests that some factor perturbing the antibody response may be inducing this unexpected outcome; and

''Whereas, there is evidence that the exposure of veterans to chemical agents may explain many of the previously inexplicable symptoms that they are plagued with today, for, according to James J. Tuite, III, former director of the U.S. Senate Banking Committee investigating into the arming of Iraq and the health effects of the Persian Gulf War, the Persian Gulf War was the most toxic battlefield in the history of modern warfare, and studies since World War I have shown that individuals exposed to chemical agents and other related poisons have had symptoms similar to those that plague the Gulf War veterans; and

''Whereas, Mr. Tuite further testified that many of the chemical poisons that were detected and confirmed by coalition chemical specialists are known to affect the central nervous and immune systems; and

''Whereas, to provide protection against the lethal effects of chemical warfare nerve agents, troops deployed to the Persian Gulf were issued twenty-one thirty milligram tablets of pyridostigmine bromide (PB), a drug which has been suggested as a cause of this chronic illness in Gulf Veterans; and

''Whereas, a most recent study by Duke University shows that a combination of three chemicals, including PB, used to protect soldiers from insect-borne diseases and nerve-gas poisoning may have caused the symptoms reported by an estimated thirty thousand Gulf War veterans based on a study using chickens, who suffered neurological dysfunction when issued the mixture of the insecticides and the anti-nerve-gas agent; and

''Whereas, the United States Government has responded to the concerns of the failing health of these veterans by creating several projects to help to treat the afflicted veterans and to research the causes of their disease; and

''Whereas, the Department of Defense, headed by Secretary William Perry and Deputy Secretary John White, and in support of President Clinton's commitment to our Persian Gulf troops, has launched an unprecedented effort in researching and treating Gulf War veterans' illnesses; and

''Whereas, such projects include the Comprehensive Clinical Evaluation Program (CCEP), which was initiated in June, 1994, by the Department of Defense to provide in-depth medical examinations to nearly twenty thousand service and family members who are suffering from conditions induced by the Gulf War; and

''Whereas, a Specialized Care Center (SCC) was opened at Walter Reed Army Medical Center in March, 1995, for the intensive treatment of symptomatic Persian Gulf War veterans, and another of these centers is scheduled to open at Wilford Hall Medical Center in San Antonio, Texas, in mid-May, 1996; and

''Whereas, ongoing and planned epidemiologic studies by the Department of Defense, Veterans' Affairs, and Health and Human Services further search for answers to these inexplicable symptoms of disease suffered by Gulf War veterans; and

''Whereas, the Clinton administration has also created an advisory committee on Gulf War veterans' illnesses to ensure an independent, open, and comprehensive examination of health concerns related to Gulf War -

service, which consists of twelve members made up of veterans, scientists, health care professionals, and policy experts; and

''Whereas, the committee delivered in interim report in February, 1996, which offered directives to the Department of Defense regarding medical and clinical issues, research, and the hazards of future use of chemical and biological weapons, and will deliver their final report to the president no later than December, 1996; and

''Whereas, as many questions remain unanswered regarding Gulf War Syndrome, it is vital that our government continue to conduct the research and treatment that it has initiated and further increase its allocations for such research and treatment in order to provide relief for the many veterans afflicted by Gulf War Syndrome; and

''Whereas, these troops bravely fought for our country in the Gulf War, putting their lives on the line in the name of the United States of America; and

''Whereas, the courageous service demonstrated by all troops deployed in the Gulf War conflict merits the United States Government's continued efforts in solving this medical dilemma; and

''Whereas, it is vital to the health of our nation that the efforts to answer the questions involved with Gulf War Syndrome be continued by our government: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize congress to continue its efforts to fund and provide for the treatment of Persian Gulf War Syndrome and for continued research about the causes, effects, and treatment of the syndrome, and does further request that congress allocate additional resources to provide sufficient funding to make such research and treatment a priority so that this disease can be better understood and ultimately cured; and be it further

Resolved, That a suitable copy of this Resolution be transmitted to the secretary of the United States Senate, the clerk of the United States House of Representatives, and to each member of the congressional delegation from Louisiana.

POM–647. A resolution adopted by the Legislature of the State of Alaska; to the Committee on Banking, Housing,and Urban Affairs.

''SENATE JOINT RESOLUTION 37

''Whereas Alaska had, by regulation, imposed a primary manufacturing requirement applicable to timber harvested from state-owned land that is destined for export from the state; and

''Whereas that regulation was permissive, allowing the director of the division of land to require that primary manufacture of forest products be accomplished within the state; and

''Whereas, considering the Commerce Clause of the United States Constitution, in Southcentral Timber Development, Inc. v. Wunnicke, 467 U.S. 82, 91 L.Ed.2d 71, 104 S.Ct. 2237 (1984), the United States Supreme Court determined that the state's regulation could not be given effect; while the court found evidence of a clearly defined federal policy imposing primary manufacture requirements as to timber taken from federal land in Alaska, it determined that the existing Congressional sanction reached only to activities on federal land and concluded that the state's assertion of Congressional authorization by silence to allow a state to regulate similar activities on nonfederal land could not be inferred; and

''Whereas since the Wunnicke decision, Congress has, in the Forest Resources Conservation and Shortage Relief Act of 1990, extended an existing ban on unprocessed log exports from federal land in the 11 contiguous Western states to cover timber harvested from nonfederal sources in those states; the extension of the ban on unprocessed log exports in those states collectively does not affect Alaska; and

''Whereas the principal purposes, stated or assumed, in the 1990 Congressional Act for extending the ban on unprocessed log exports in the contiguous Western states—the efficient use and effective conservation of forests and forest resources, the avoidance of a shortfall in unprocessed timber in the marketplace, and concern for development of a rational log export policy as a national matter—are equally valid with respect to the significant timber resources held by this state, its political subdivisions, and its public university; and

''Whereas the state cannot act to regulate, restrict, or prohibit the export of unprocessed logs harvested from land of the state, its political subdivisions, and the University of Alaska without a legislative expression demonstrating Congressional intent that is unmistakably clear; Be it

Resolved, That the legislature of the State of Alaska urges the United States Congress to give an affirmative expression of approval to a policy authorizing the state to regulate, restrict, or prohibit the export of unprocessed logs harvested from its land and from the land of its political subdivisions and the University of Alaska.

POM–648. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Commerce, Science, and Transportation.

''HOUSE CONCURRENT RESOLUTION NO. 11

''Whereas, the historic gulfward boundary of the state of Louisiana extends a distance into the Gulf of Mexico three marine leagues from the coast; and

''Whereas, the coastline of the state of Louisiana is accepted and approved as designated in accordance with applicable Act of Congress; and

''Whereas, the United States Congress, by its Tidelands Act approved May 22, 1953, recognized and confirmed state ownership of the lands beneath navigable waters within the state's boundaries, and the natural resources, including oil, gas, and all other minerals, and fish, shrimp, oysters, and other marine animals and plant life therein; and

''Whereas, said Tidelands Act adopted state boundaries in the Gulf of Mexico as they existed at the time such state became a member of the Union not more than three marine leagues into the Gulf of Mexico from the coastline; and

''Whereas, which ''coastline'' is defined in the Act as that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters; and

''Whereas, the state of Louisiana owns these submerged lands and natural resources within such land and waters in trust for its people, and the economic welfare of the state and public services depend upon the state revenues to be derived from these valuable resources: Therefore, be it

''*Resolved,* That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to extend the coastal boundary in Louisiana from three miles to ten miles; and be it further

''*Resolved,* That a copy of this Resolution be transmitted to the presiding officers of the Senate and House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–649. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance.

''HOUSE CONCURRENT RESOLUTION NO. 109

''Whereas, several years ago the Internal Revenue Service issued a private letter ruling that provided that the total expense reimbursement for school bus drivers be included in wages; and

''Whereas, in response to this ruling local school boards have had to include within wages on the school bus drivers W–2 forms the total expense reimbursement paid to school bus drivers; and

''Whereas, including expense reimbursement in wages has caused hardships on the school bus drivers in many instances forcing them into higher tax brackets: Therefore, be it

''*Resolved,* That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to assure and provide that expense reimbursements no longer be considered as wages for purposes of the federal income tax; and be it further

''*Resolved,* That a copy of this Resolution be transmitted to the presiding officers of the Senate and House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.''

POM–650. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Foreign Relations.

''HOUSE CONCURRENT RESOLUTION NO. 52

''Whereas, 'female genital mutilation' is a term used for a variety of genital operations performed on young female children and women in accordance with traditional beliefs and customs; and

''Whereas, it has been estimated that approximately one hundred fourteen million women and girls have been mutilated throughout the world and that in the United States female genital mutilation is the process of being made illegal; and

''Whereas, circumcision is the mildest form of female genital mutilation with excision and infibulation being the more severe forms of the procedure; and

''Whereas, the Foundation for Women's Health, Research and Development has for the past ten years sought to actively campaign for the eradication of female genital mutilation; and

''Whereas, female genital multilation is not a cultural issue, but is an issue of the abuse of children and women's basic human rights to good health; and

''Whereas, female genital multilation may cause numerous physical complications, including hemorrhage and severe pain, which can ultimately cause shock and even death; and

''Whereas, female genital multilation may also cause long-term complications resulting from scarring and interference with the drainage of urine and menstrual blood, such as chronic pelvic infection, which may cause pelvic back pain, dysmenorrhea, inferility, chronic urinary tract infections, urinary stones, or kidney damage; and

''Whereas, Ms. Fauziya Kasinga, an eighteen-year-old young woman, fled her homeland of Togo to escape multilation and has been in a York County, New York, jail for more than a year waiting for immigration officials and judges to decide whether to grant her plea for refuge; and

''Whereas, many young women from around the world will continue to flee their countries and face imprisonment before succumbing to the painful and inhumane custom of female genitale multiation; and

''Whereas, the President and Congress may utilize the influence of the United States in

the relationships of this nation with foreign countries to spare many nonconsening women and young girls the inhumane and dangerous procedures associated with the custom or ritual of female genitale mutilation or imprisonment for refusing such multilation: Therefore, be it

''*Resolved*, That the Legislature of Louisiana does hereby urge and request the Honorable Bill Clinton, President of the United States of America, and the Congress of the United States of America to utilize the influence of the United States in international relations to end the custom or ritual of female genital multilation in those countries where such procedures are presently practiced upon individuals who choose not to undergo such procedures and to grant political asylum to individuals who flee their homelands to escape the custom or ritual; and be it further

''*Resolved*, That a copy of this Resolution be transmitted to the Honorable Bill Clinton, President of the United States of America, to the presiding officers of the Senate and House of Representatives of the Congress of the United States of America, and to each member of the Louisiana congressional delegation.

POM–651. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Governmental Affairs.

''HOUSE CONCURRENT RESOLUTION NO. 83

''Whereas, the United States Congress, by its authority to regulate commerce among the states, has repeatedly preempted state laws, including those relating to health, welfare, transportation, communications, banking, the environment, and civil justice, reducing the ability of state legislatures to be responsible to their constituents; and

''Whereas, more than half of all federal laws preempting states have been enacted by congress since 1969, intensifying an erosion of state power that leaves an essential part of our constitutional structure—federalism—standing precariously; and

''Whereas, the United States Constitution anticipates that our American federalism will allow differences among state laws, expecting people to seek change through their own legislatures without federal legislators representing other states preempting states to impose national laws; and

''Whereas, constitutional tension, necessary to protect liberty, arises from the fact that federal law is ''the supreme Law of the Land'', while in contrast powers not delegated to the federal government are reserved to the states or to the people; and that tension can exist only when states are not preempted and thus remain credible powers in the federal system; and

''WHEREAS, less federal preemption means states can act as laboratories of democracy, seeking novel social and economic policies without risk to the nation; and

''WHEREAS, the National Conference of State Legislatures has stated well the dynamic nature of federalism and the need for freedom of the states to act in areas reserved to them, noting that federalism anticipates diversity, that the unity of the states does not anticipate uniformity, and that every preemptive law diminishes other expressions of self-government and should be approved only where compelling need and broad consensus exist; and

''WHEREAS, S. 1629, the proposed Tenth Amendment Enforcement Act of 1996, is designed to create mechanisms for careful consideration of proposals that would preempt states in areas historically within their purview through procedural mechanisms in the legislative, executive, and judicial branches of government, namely:

''In the Legislative branch by requiring a statement of constitutional authority and an expression of the intent to preempt states,

''In the Executive branch, by curbing agencies that may preempt beyond their legislative authority, and

''In the Judicial branch, by codifying judicial deference to state laws where the congress is not clear in its intent to preempt: Therefore, be it

''*Resolved*, That the Legislature of Louisiana does hereby memorialize the United States Congress to enact the proposed Tenth Amendment Enforcement Act of 1996, does further urge and request the Louisiana congressional delegation to co-sponsor the legislation, and does urge and request the Honorable Bill Clinton, President of the United States, to sign the legislation into law when it is presented to him for signature; and be it further

''*Resolved*, That copies of this Resolution be transmitted to the Honorable Bill Clinton, President of the United States, to the president of the Senate and the speaker of the House of Representatives of the United States Congress, and to each member of the Louisiana congressional delegation.

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. GRAHAM:

S. 1933. A bill to authorize a certificate of documentation for certain vessels, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWN:

S. 1934. A bill to provide for an exchange of lands with the city of Greeley, CO, and the Water Supply & Storage Co. to eliminate private inholdings in wilderness areas, to cause instream flows to be created above a wild and scenic river, to eliminate potential development on private inholdings within the forest boundary, to reduce the need for future water reservoirs, to reduce the number of Federal land use authorizations, and to improve the security of the water of the city and the company, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BRADLEY:

S. 1935. A bill to provide for improved information collection and dissemination by the Environmental Protection Agency, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CRAIG (for himself and Mr. MURKOWSKI):

S. 1936. A bill to amend the Nuclear Waste Policy Act of 1982; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRAIG (for himself, Mr. BAUCUS, Mr. PRESSLER, Mr. BURNS, Mr. GRASSLEY, Mr. DOMENICI, Mr. THOMAS, Mr. KEMPTHORNE, and Mr. BOND):

S. Res. 277. A resolution to express the sense of the Senate that, to ensure continuation of a competitive free-market system in the cattle and beef markets, the Secretary of Agriculture and Attorney General should use existing legal authorities to monitor commerce and practices in the cattle and beef markets for potential antitrust violations, the Secretary of Agriculture should increase reporting practices regarding domestic commerce in the beef and cattle markets (including exports and imports), and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BRADLEY:

S. 1935. A bill to provide for improved information collection and dissemination by the Environmental Protection Agency, and for other purposes; to the Committee on Environment and Public Works.

THE PUBLIC TRUST AND ENVIRONMENTAL ACCOUNTABILITY ACT

Mr. BRADLEY. Mr. President, today I am introducing the Public Trust and Environmental Accountability Act to improve collection, retrieval, and dissemination of vital environmental data needed for community information and disaster response.

For the first time, under the Public Trust and Environmental Accountability Act, firefighters, plant neighbors, local governments, and the general public will have easy access to complete data on a plant's permit compliance and plant operation. Not only will the public be able to discover whether their local facility has had past environmental violations but they will also be able to research that company's compliance history throughout the United States using just one consolidated file, available by computer search.

For example, last year, when the Napp Technologies plant in Lodi, NJ, exploded, the community surrounding the plant had little knowledge of what went on within the plant gates. If the Public Trust and Environmental Accountability Act had been in effect, local citizens would have known: what chemicals were stored onsite; what permits were held by the plant; what violations had occurred; whether there had been any accidents or releases of chemicals; and, when the plant was last inspected.

Currently, data collected by the Environmental Protection Agency [EPA] is scattered and fragmented across the Agency or left in files at the State level. Instead of centralizing and coordinating all data by plant or location, much of EPA's information is kept in numerous duplicative files in the Agency's separate program offices where it is divided arbitrarily by the type of pollutant under regulation such as air, water, or solid waste. Thus using EPA data to build a complete compliance profile of a particular plant is both time consuming and unnecessarily difficult.

However, my bill streamlines this unwieldy system by directing EPA to enhance access, encourage public use, and improve management of public information that it has collected under the Agency's many environmental statutes, pollution prevention initiatives and environmental permitting requirements. Under the act, EPA would create standard formats for information

collection and improve the coordination of data which it has received from its various units and from other sources such as State agencies. The Act would also provide the public with greater computer access to EPA data bases.

No additional data would be required from the private sector. In fact, the current reporting burden on industry could be reduced once streamlined data collection was in place. The bill also complements new EPA initiatives aimed at consolidating permit requirements and eliminating paperwork.

This bill is an example of how we can use public power to help communities protect themselves through access to information rather than through additional programs or more bureaucracy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1935

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 ''Public Trust and Environmental Accountability Act''.

SEC. 2. definitions.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Agency.

(2) AGENCY.—The term ''Agency'' means the Environmental Protection Agency.

SEC. 3. IMPROVED INFORMATION COLLECTION AND DISSEMINATION.

(a) PURPOSES.—The purposes of this section are—

(1) to enhance public access and encourage use of information collected by the Agency;

(2) to improve the management of information resources; and

(3) to assist Agency enforcement, pollution prevention, and multimedia permitting and reporting initiatives.

(b) PLAN.—Not later than 1 year after the date of enactment of this Act, the Administrator shall develop a plan to implement policies, programs, and methods for integrating and making publicly available information pertaining to the environment and public health policy concerns within the jurisdiction of the Agency.

(c) MATTERS TO BE ADDRESSED.—The policies, programs, and methods under subsection (b) shall provide for—

(1) creation of standard information formats for collection, integration, retrieval, storage, retention, and dissemination of information;

(2) improved coordination of information collection and information management to integrate separate information resources, including the development and implementation of common company, facility, industrial sector, geographic, and chemical identifiers and such other information as the Administrator determines to be appropriate;

(3) a system for indexing, locating, and obtaining information maintained by the Agency concerning parent companies, facilities, chemicals, and the regulatory status of entities subject to oversight by the Agency;

(4) ready accessibility of, and dissemination of, publicly available information generated by or submitted to the Agency, including public accessibility by computer telecommunication and other means; and

(5) universal availability of electronic reporting for all environmental reporting requirements established under laws administered by the Agency directly or through delegations to States, territories, and Indian tribes.

(d) COORDINATION.—

(1) IN GENERAL.—The Administrator shall coordinate the Agency's information collection and dissemination activities with the activities of other Federal, State, and local agencies to reduce unnecessary burdens and promote greater integration of information.

(2) OTHER INFORMATION.—When necessary to support the mission of the Agency, the Administrator may provide for the integration and dissemination of publicly available information not collected by the Agency.

(e) LIMITATION.—Nothing in this section shall affect the duty of the Agency to maintain the confidentiality of trade secrets, confidential business information, or information that is subject to a rule of court or court order requiring maintenance of confidentiality.

(f) PRICING.—The Administrator may set charges for the provision of information under this section in accordance with the pricing policies of chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(g) DISSEMINATION POLICIES.—Dissemination policies of the Agency shall include fee reductions, fee waivers, and other support services to encourage public use of information maintained by the Agency.

(h) REPORTS.—Not later than 2 years after the date of enactment of this section and annually thereafter, the Administrator shall produce and make available reports that summarize the information that has been made available under this section.

SEC. 4. SOURCE REDUCTION AWARD PROGRAM.

The Administrator shall establish an annual award program to recognize companies that operate outstanding or innovative source reduction programs.●

ADDITIONAL COSPONSORS

S. 1892

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 1892, a bill to reward States for collecting medicaid funds expended on tobacco-related illnesses, and for other purposes.

S. 1898

At the request of Mr. DOMENICI, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1898, a bill to protect the genetic privacy of individuals, and for other purposes.

S. 1917

At the request of Mr. ABRAHAM, the names of the Senator from Pennsylvania [Mr. SANTORUM], and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of S. 1917, a bill to authorize the State of Michigan to implement the demonstration project known as ''To Strengthen Michigan Families.''

S. 1928

At the request of Mr. LEVIN, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1928, A bill to amend the Internal Revenue Code of 1986 to eliminate tax incentives for exporting jobs outside of the United States, and for other purposes.

SENATE RESOLUTION 277—RELATIVE TO THE BEEF AND CATTLE MARKETS

Mr. CRAIG (for himself, Mr. BAUCUS, Mr. PRESSLER, Mr. BURNS, Mr. GRASSLEY, Mr. DOMENICI, Mr. THOMAS, Mr. BOND, and Mr. KEMPTHORNE) submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 277

Whereas historically high cattle supplies, low cattle prices, and high feed costs have brought hardship to United States cattle producers: Now, therefore, be it

Resolved,

SECTION 1. MONITORING AND EVALUATION OF ANTITRUST RELATED ISSUES.

It is the sense of the Senate that the Secretary of Agriculture and the Attorney General should—

(1) increase monitoring of mergers and acquisitions in the fed and nonfed beef packing sectors for potential antitrust violations; and

(2) investigate possible barriers to entry or expansion in the beef packing sector.

SEC. 2. COLLECTION AND REPORTING FUNCTIONS.

It is the sense of the Senate that the Secretary of Agriculture should—

(1) to the extent practicable on a regional basis, improve the collection, timeliness, and reporting of—

(A) contract, formula, and live cash cattle;

(B) captive supply cattle, including a definitional change from every 14 to every 7 days;

(C) boxed beef prices;

(D) price differentials within Department of Agriculture quality grades;

(E) all beef and live cattle exports and imports; and

(F) weekly fed cattle value matrix; and

(2) cooperate with the industry to improve collection and reporting of—

(A) retail scanner data to develop a retail price series that reflects both volume and price of all beef sold at retail; and

(B) price and quantity data for United States beef sold for consumption in the away-from-home market.

SEC. 3. SELF-REGULATION WITHIN THE PRIVATE SECTOR.

It is the sense of the Senate that—

(1) in the case of cattle that are not sold on a live cash basis, a ''grid'' pricing structure should be utilized to determine prices and spreads through competitive bidding not more than 7 days prior to shipment; and

(2) agricultural lenders should consider the total asset portfolio, instead of merely the cash flow, of an entity participating in the cattle and beef markets when evaluating loan performance.

SEC. 4. INTERNATIONAL BARRIERS TO TRADE.

It is the sense of the Senate that—

(1) the Secretary of Agriculture should continue to identify and seek to eliminate unfair trade barriers and subsidies affecting United States beef markets;

(2) the United States and Canadian Governments should expeditiously negotiate the elimination of animal health barriers that are not based on sound science; and

(3) the import ban on beef from cattle treated with approved growth hormones imposed by the European Union should be terminated.

SEC. 5. EMERGENCY LOAN GUARANTEES.

It is the sense of the Senate that funding for emergency loan guarantees, which assist

agricultural producers who have suffered economic loss due to a natural disaster or other economic conditions, should be funded.

Mr. CRAIG. Mr. President, I rise to submit a resolution of critical importance to our Nation's cattle producers. The beef industry assistance resolution is designed to address the short-term problems that plague the cattle industry because of the prolonged down cycle of the beef market.

A number of my colleagues share my concerns, and I am pleased to announce that original cosponsors of this resolution are Senator MAX BAUCUS, Senator CHUCK GRASSLEY, Senator LARRY PRESSLER, Senator PETE DOMENICI, Senator CONRAD BURNS, Senator DIRK KEMPTHORNE, and Senator CRAIG THOMAS.

As a former rancher, I have a firsthand understanding of the challenges that face the cattle industry. The prolonged down cycle is especially troubling because it affects the livelihoods of thousands of ranching families in Idaho and across the country.

These beef producers are the largest sector of Idaho and American agriculture. Over 1 million families raise over 100 million head of beef cattle every year. This contributes over $36 billion to local economies. Even with the extended cycle of low prices, direct cash receipts from the Idaho cattle industry were almost $620 million in 1995. These totals only represent direct sales; they do not capture the multiplier effect that cattle ranches have in their local economies from expenditures on labor, feed, fuel, property taxes, and other inputs.

Over the years, cattle operations have provided a decent living and good way of life in exchange for long days, hard work, and dedication. While the investment continues to be high, the returns have been low in recent years.

The problems facing the cattle industry in recent years are complex. The nature of the market dictates that stable consumption combined with increased productivity and growing herd size yield lower prices to producers. This, combined with high feed prices and limited export opportunities, has caused a near crisis.

Many Idahoans have contacted me on this issue. Some suggest the Federal Government intervene in the market to help producers. However, many others have expressed fear that Federal intervention, if experience is any indication, will only complicate matters and may also create a number of unintended results. I tend to agree with the latter. Time and again, I have seen lawmakers and bureaucrats in Washington, DC, albeit well-intentioned, take a difficult situation and make it worse. This does not mean that I believe Government has no role to play. I have supported and will continue to support measures of proven value. However, I will continue to follow this situation closely with the hope that free market forces will, in the long run, aid in making cattle producers more efficient, productive, and profitable.

The cattle industry is part of a complex, long-term cycle; however, there are producers who might not survive the short term consequences. The beef industry assistance resolution addresses a number of these short-term issues. These are issues that were raised at a hearing of the Agriculture Committee that I chaired a few weeks ago.

The resolution has five sections—antitrust monitoring, market reporting, private sector self-regulation, recognition of barriers to international trade, and emergency loan guarantees.

Section 1 encourages the Secretary of Agriculture and Department of Justice to increase the monitoring of mergers and acquisitions in the beef industry. Investigation of possible barriers in the beef packing sector for new firms and with other commodities is encouraged.

Section 2 directs the Secretary of Agriculture to expedite the reporting of existing beef categories and add additional categories. These categories include contract, formula and live cash cattle prices and boxed beef prices. The Secretary is also encouraged to increase the frequency of captive supply cattle from every 14 to 7 days. I am especially interested in the improved reporting of all beef and live cattle exports and imports. The second section also directs the Secretary to capture data on a previously unrecorded segment of the market—away from home consumption. While this market consumes approximately half of the Nation's beef production, very little is known about it.

Section 3 encourages two very important measures within the private sector. First, meat packing companies are encouraged to fully utilize a grid pricing structure which will provide producers with a more complete picture for the particular type of the cattle they produce. Second, agricultural lenders are encouraged to consider the total asset portfolio, not just cashflow, when evaluating this year's beef loans. Even the best operators will have great difficulty cash-flowing a cattle outfit because of the prolonged period of low prices.

Section 4 recognizes a number of barriers to international trade that adversely affect American beef producers. The section is meant to elevate the importance of all trade issues and specifically references the elimination of the European Union hormone ban and animal health barriers between the United States and Canada.

Section 5 recommends that emergency loan guarantees be made available to agricultural lenders with cattle industry loans. I am disappointed that the President zeroed out funding for this program in his fiscal year 1997 proposal. I have heard from a number of lenders that a high number of loans are questionable for this fall.

The beef industry assistance resolution is a measure designed to provide immediate, short-term solutions to some of the serious problems facing the cattle industry. I know that a number of my colleagues have legislation pending in regard to the cattle market. I would comment that I see this resolution as a starting point, not an ending point for cattle industry issues.

AMENDMENTS SUBMITTED

THE SMALL BUSINESS JOB PROTECTION ACT OF 1996

ROTH (AND OTHERS) AMENDMENT NO. 4436

Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. LOTT, and Mr. DASCHLE) proposed an amendment to the bill (H.R. 3448) to provide tax relief for small businesses, to protect jobs, to create opportunities, to increase the take-home pay of workers, and for other purposes; as follows:

On page 243, strike lines 9 through 11, and insert:

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

(2) TRANSITIONAL RULE.—If—

(A) for purposes of applying part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 to any taxable year beginning before January 1, 1987, an agricultural or horticultural organization did not treat any portion of membership dues received by it as income derived in an unrelated trade or business, and

(B) such organization had a reasonable basis for not treating such dues as income derived in an unrelated trade or business,

then, for purposes of applying such part III to any such taxable year, in no event shall any portion of such dues be treated as derived in an unrelated trade or business.

(3) REASONABLE BASIS.—For purposes of paragraph (2), an organization shall be treated as having a reasonable basis for not treating membership dues as income derived in an unrelated trade or business if the taxpayer's treatment of such dues was in reasonable reliance on any of the following:

(A) Judicial precedent, published rulings, technical advice with respect to the organization, or a letter ruling to the organization.

(B) A past Internal Revenue Service audit of the organization in which there was no assessment attributable to the reclassification of membership dues for purposes of the tax on unrelated business income.

(C) Long-standing recognized practice of agricultural or horticultural organizations.

On page 246, strike lines 1 through 3, and insert:

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to remuneration paid—

(A) after December 31, 1994, and

(B) after December 31, 1984, and before January 1, 1995, unless the payor treated such remuneration (when paid) as being subject to tax under chapter 21 of the Internal Revenue Code of 1986.

(2) REPORTING REQUIREMENT.—The amendment made by subsection (a)(1)(C) shall apply to remuneration paid after December 31, 1996.

On page 256, line 2, strike the quotation marks.

On page 256, between lines 2 and 3, insert the following:

''(5) PRESERVATION OF PRIOR PERIOD SAFE HARBOR.—If—

''(A) an individual would (but for the treatment referred to in subparagraph (B)) be deemed not to be an employee of the taxpayer under subsection (a) for any prior period, and

''(B) such individual is treated by the taxpayer as an employee for employment tax purposes for any subsequent period,

then, for purposes of applying such taxes for such prior period with respect to the taxpayer, the individual shall be deemed not to be an employee.

''(6) SUBSTANTIALLY SIMILAR POSITION.—For purposes of this section, the determination as to whether an individual holds a position substantially similar to a position held by another individual shall include consideration of the relationship between the taxpayer and such individuals.''

On page 257, between lines 5 and 6, insert the following:

SEC. 1123. TREATMENT OF HOUSING PROVIDED TO EMPLOYEES BY ACADEMIC HEALTH CENTERS.

(a) IN GENERAL.—Paragraph (4) of section 119(d) (relating to lodging furnished by certain educational institutions to employees) is amended to read as follows:

''(4) EDUCATIONAL INSTITUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'educational institution' means—

''(i) an institution described in section 170(b)(1)(A)(ii), or

''(ii) an academic health center.

''(B) ACADEMIC HEALTH CENTER.—For purposes of subparagraph (A), the term 'academic health center' means an entity—

''(i) which is described in section 170(b)(1)(A)(iii),

''(ii) which receives (during the calendar year in which the taxable year of the taxpayer begins) payments under subsection (d)(5)(B) or (h) of section 1886 of the Social Security Act (relating to graduate medical education), and

''(iii) which has as one of its principal purposes or functions the providing and teaching of basic and clinical medical science and research with the entity's own faculty.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1995.

On page 268, lines 8 and 9, strike ''December 31, 1996'' and insert ''December 31, 1997''.

On page 269, strike line 10, and insert:

''(B) after December 31, 1997.

Notwithstanding the preceding sentence, in the case of a taxpayer making an election under subsection (c)(4) for its first taxable year beginning after June 30, 1996, and before July 1, 1997, this section shall apply to amounts paid or incurred during such first taxable year and the first 6 months of the succeeding taxable year.''

On page 272, line 22, strike ''June 30, 1997'' and insert ''December 31, 1997''.

On page 273, between lines 6 and 7, insert:

(3) ESTIMATED TAX.—The amendments made by this section shall not be taken into account under section 6654 or 6655 of the Internal Revenue Code of 1986 (relating to failure to pay estimated tax) in determining the amount of any installment required to be paid before October 1, 1996.

On page 274, line 11, strike ''June 30, 1997'' and insert ''December 31, 1997''.

On page 276, line 20, strike ''June 30, 1997'' and insert ''December 31, 1997''.

On page 277, line 6, strike ''January 1, 1998'' and insert ''January 1, 1999''.

On page 277, line 16, strike ''(a) IN GENERAL.—''.

On page 277, lines 23 and 24, strike ''after June 30, 1996, and before July 1, 1997'' and insert ''beginning on the date which is 7 days after the date of the enactment of the Small Business Job Protection Act of 1996 and ending on December 31, 1997''.

On page 277, strike lines 25 and 26, and insert the following:

SEC. 1208. EXTENSION OF TRANSITION RULE FOR CERTAIN PUBLICLY TRADED PARTNERSHIPS.

(a) IN GENERAL.—Subparagraph (B) of section 10211(c)(1) of the Revenue Act of 1987 (Public Law 100–203) is amended by striking ''December 31, 1997'' and inserting ''December 31, 1999''.

(b) CONFORMING AMENDMENT.—Subparagraph (C)(i) of section 10211(c)(2) of the Revenue Act of 1987, as added by section 2004(f)(2) of the Technical and Miscellaneous Revenue Act of 1988, is amended by striking ''December 31, 1997'' and inserting ''December 31, 1999''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 10211 of the Revenue Act of 1987.

On page 303, strike lines 1 through 23, and insert the following:

''(e) SPECIAL RULES APPLICABLE TO S CORPORATIONS.—If an organization described in section 1361(c)(7) holds stock in an S corporation—

''(1) such interest shall be treated as an interest in an unrelated trade or business; and

''(2) notwithstanding any other provision of this part, all items of income, loss, deduction, or credit taken into account under section 1366(a) and any gain or loss on the disposition of the stock in the S corporation shall be taken into account in computing the unrelated business taxable income of such organization.''

On page 383, strike lines 3 through 15, and insert the following:

SEC. 1451. MISSING PARTICIPANTS.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

''(c) MULTIEMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

''(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

''(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

''(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan that makes the election described in paragraph (1) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant.

''(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

''(A) in a single sum (plus interest), or

''(B) in such other form as is specified in regulations of the corporation.

''(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

''(A) the plan is a pension plan (within the meaning of section 3(2))—

''(i) to which the provisions of this section do not apply (without regard to this subsection), and

''(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

''(B) at the time the assets are to be distributed upon termination, the plan—

''(i) has missing participants, and

''(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to another pension plan (within the meaning of section 3(2)).

''(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).''

(b) CONFORMING AMENDMENTS.—

(1) Section 206(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(f)) is amended—

(A) by striking ''title IV'' and inserting ''section 4050'', and

(B) by striking ''the plan shall provide that''.

(2) Section 401(a)(34) (relating to benefits of missing participants on plan termination) is amended by striking ''title IV'' and inserting ''section 4050''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

On page 393, after line 24, add the following:

SEC. 1459. ALTERNATIVE NONDISCRIMINATION RULES FOR CERTAIN PLANS THAT PROVIDE FOR EARLY PARTICIPATION.

(a) CASH OR DEFERRED ARRANGEMENTS.—Paragraph (3) of section 401(k) (relating to application of participation and discrimination standards), as amended by section 1433(d)(1) of this Act, is amended by adding at the end the following new subparagraph:

''(F) SPECIAL RULE FOR EARLY PARTICIPATION.—If an employer elects to apply section 410(b)(4)(B) in determining whether a cash or deferred arrangement meets the requirements of subparagraph (A)(i), the employer may, in determining whether the arrangement meets the requirements of subparagraph (A)(ii), exclude from consideration all eligible employees (other than highly compensated employees) who have not met the minimum age and service requirements of section 410(a)(1)(A).''

(b) MATCHING CONTRIBUTIONS.—Paragraph (5) of section 401(m) (relating to employees taken into consideration) is amended by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR EARLY PARTICIPATION.—If an employer elects to apply section 410(b)(4)(B) in determining whether a plan meets the requirements of section 410(b), the employer may, in determining whether the plan meets the requirements of paragraph (2), exclude from consideration all eligible employees (other than highly compensated employees) who have not met the minimum age and service requirements of section 410(a)(1)(A).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1998.

SEC. 1460. MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS.

(a) AMENDMENTS TO INTERNAL REVENUE CODE.—Section 417(b) is amended—

(1) by striking ''For'' and inserting:

''(1) IN GENERAL.—'',

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and

(3) by adding at the end the following new paragraph:

''(2) ELECTION OF 66⅔ PERCENT SURVIVOR ANNUITY.—

''(A) IN GENERAL.—In the case of any plan with respect to which the survivor annuity under a qualified joint and survivor annuity

is not equal to 66⅔ percent of the amount of the annuity which is payable during the joint lives of the participant and the spouse, such plan shall not be treated as meeting the requirements of section 401(a)(11) unless the participant may elect a qualified joint and survivor annuity with a survivor annuity which is equal to 66⅔ percent of such amount.

''(B) TREATMENT OF ANNUITY.—If a participant elects a survivor annuity under subparagraph (A), such annuity shall be treated as a qualified joint and survivor annuity for purposes of this title (other than subsection (c)(1)(A)).''

(b) AMENDMENTS TO ERISA.—Subsection (d) of section 205 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(2) by inserting ''(1)'' after ''(d)'', and

(3) by adding at the end the following new paragraph:

''(2)(A) In the case of any plan with respect to which the survivor annuity under a qualified joint and survivor annuity is not equal to 66⅔ percent of the amount of the annuity which is payable during the joint lives of the participant and the spouse, such plan shall not be treated as meeting the requirements of subsection (a) unless the participant may elect a qualified joint and survivor annuity with a survivor annuity which is equal to 66⅔ percent of such amount.

''(B) If a participant elects a survivor annuity under subparagraph (A), such annuity shall be treated as a qualified joint and survivor annuity for purposes of this title (other than subsection (e)(1)(A)).''

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

(2) SPECIAL RULE FOR EXISTING PLANS.—In the case of a plan in existence on the date of the enactment of this Act, the amendments made by this section shall apply to any plan year following the first plan year with respect to which the first plan amendment adopted after such date of enactment takes effect.

SEC. 1461. CLARIFICATION OF APPLICATION OF ERISA TO INSURANCE COMPANY GENERAL ACCOUNTS.

(a) IN GENERAL.—Section 401 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101) is amended by adding at the end the following new subsection:

''(c)(1)(A) Not later than December 31, 1996, the Secretary shall issue proposed regulations to provide guidance for the purpose of determining, in cases where an insurer issues 1 or more policies to or for the benefit of an employee benefit plan (and such policies are supported by the assets of such insurer's general account), which assets of the insurer (other than plan assets held in its separate accounts) constitute assets of the plan for purposes of this part and section 4975 of the Internal Revenue Code of 1986.

''(B) The proposed regulations under subparagraph (A) shall be subject to public notice and comment until March 31, 1997.

''(C) The Secretary shall issue final regulations providing the guidance described in subparagraph (A) not later than June 30, 1997.

''(2) In issuing regulations under paragraph (1), the Secretary—

''(A) subject to subparagraph (C), may exclude any assets of the insurer with respect to its operations, products, or services from treatment as plan assets,

''(B) shall provide that assets not treated as plan assets under subsection (b)(2) shall not be treated as plan assets under paragraph (1), and

''(C) shall ensure that the regulations—

''(i) are administratively feasible, and

''(ii) are designed to protect the interests and rights of the plan and of its participants and beneficiaries.

''(3)(A) Subject to subparagraph (B), any regulations issued under paragraph (1) shall not take effect before the date on which such regulations become final.

''(B) No person shall be subject to liability under this part or section 4975 of the Internal Revenue Code of 1986 for conduct which occurred before the date which is 18 months following the date described in subparagraph (A) on the basis of a claim that the assets of an insurer (other than plan assets held in a separate account) constitute assets of the plan, except—

''(i) as otherwise provided by the Secretary in regulations intended to prevent avoidance of the regulations issued under paragraph (1), or

''(ii) as provided in an action brought by the Secretary pursuant to subsection (a) (2) or (5) of section 502 for a breach of fiduciary responsibilities which would also constitute a violation of Federal criminal law or constitute a felony under applicable State law.

''(4) Nothing in this subsection shall preclude the application of any Federal criminal law.

''(5) For purposes of this subsection, the term 'policy' includes a contract.''

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall take effect on January 1, 1975.

(2) CIVIL ACTIONS.—The amendment made by this section shall not apply to any civil action commenced before November 7, 1995.

SEC. 1462. SPECIAL RULES FOR CHAPLAINS AND SELF-EMPLOYED MINISTERS.

(a) IN GENERAL.—Section 414(e) (defining church plan) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULES FOR CHAPLAINS AND SELF-EMPLOYED MINISTERS.—

''(A) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this part—

''(i) IN GENERAL.—An employee of a church or a convention or association of churches shall include a duly ordained, commissioned, or licensed minister of a church who, in connection with the exercise of his or her ministry—

''(I) is a self-employed individual (within the meaning of section 401(c)(1)(B)), or

''(II) is employed by an organization other than an organization described in section 501(c)(3).

''(ii) TREATMENT AS EMPLOYER AND EMPLOYEE.—

''(I) SELF-EMPLOYED.—A minister described in clause (i)(I) shall be treated as his or her own employer which is an organization described in section 501(c)(3) and which is exempt from tax under section 501(a).

''(II) OTHERS.—A minister described in clause (i)(II) shall be treated as employed by an organization described in section 501(c)(3) and exempt from tax under section 501(a).

''(B) SPECIAL RULES FOR APPLYING SECTION 403(b) TO SELF-EMPLOYED MINISTERS.—In the case of a minister described in subparagraph (A)(i)(I)—

''(i) the minister's includible compensation under section 403(b)(3) shall be determined by reference to the minister's earned income (within the meaning of section 401(c)(2)) from such ministry rather than the amount of compensation which is received from an employer, and

''(ii) the years (and portions of years) in which such minister was a self-employed individual (within the meaning of section 401(c)(1)(B)) with respect to such ministry shall be included for purposes of section 403(b)(4).

''(C) EFFECT ON NON-DENOMINATIONAL PLANS.—If a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry participates in a church plan (within the meaning of this section) and is employed by an employer not eligible to participate in such church plan, then such minister shall not be treated as an employee of such employer for purposes of applying sections 401(a)(3), 401(a)(4), and 401(a)(5), as in effect on September 1, 1974, and sections 401(a)(4), 401(a)(5), 401(a)(26), 401(k)(3), 401(m), 403(b)(1)(D) (including section 403(b)(12)), and 410 to any stock bonus, pension, profit-sharing, or annuity plan (including an annuity described in section 403(b) or a retirement income account described in section 403(b)(9)).''

(b) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—Section 404(a) (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end the following new paragraph:

''(10) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—In the case of contributions made by a minister described in section 414(e)(5) to a retirement income account described in section 403(b)(9) and not by a person other than such minister, such contributions—

''(A) shall be treated as made to a trust which is exempt from tax under section 501(a) and which is part of a plan which is described in section 401(a), and

''(B) shall be deductible under this subsection to the extent such contributions do not exceed the limit on elective deferrals under section 402(g), the exclusion allowance under section 403(b)(2), or the limit on annual additions under section 415.

For purposes of this paragraph, all plans in which the minister is a participant shall be treated as one plan.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1996.

SEC. 1463. DEFINITION OF HIGHLY COMPENSATED EMPLOYEE FOR PRE-ERISA CHURCH PLANS.

(a) IN GENERAL.—Section 414(q) (defining highly compensated employee), as amended by section 1431(c)1(A) of this Act, is amended by adding at the end the following new paragraph:

''(7) CERTAIN EMPLOYEES NOT CONSIDERED HIGHLY COMPENSATED AND EXCLUDED EMPLOYEES UNDER PRE-ERISA CHURCH PLANS.—In the case of a church plan (as defined in subsection (e)), no employee shall be considered an officer, a person whose principal duties consist in supervising the work of other employees, or a highly compensated employee for any year unless such employee is a highly compensated employee under paragraph (1) for such year.''

(b) SAFEHARBOR AUTHORITY.—The Secretary of the Treasury may design nondiscrimination and coverage safe harbors for church plans.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1996.

SEC. 1464. RULE RELATING TO INVESTMENT IN CONTRACT NOT TO APPLY TO FOREIGN MISSIONARIES.

(a) IN GENERAL.—The last sentence of section 72(f) is amended by inserting '', or to the extent such credits are attributable to services performed as a foreign missionary (within the meaning of section 403(b)(2)(D)(iii))'' before the end period.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 1465. INCREASE IN GUARANTEED AMOUNT OF MULTIEMPLOYER PLAN BENEFITS.

(a) IN GENERAL.—Section 4022A(c) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new paragraph:

''(7)(A) In the case of a multiemployer plan which first receives financial assistance (within the meaning of section 4261) during the applicable period—

''(i) paragraph (1) shall be applied with respect to the guarantee of benefits under such plan by substituting '$11' for '$5' each place it appears and by substituting '$33' for '$15', and

''(ii) paragraphs (2), (5), and (6) shall not apply with respect to such plan.

''(B) For purposes of subparagraph (A), the applicable period is the period—

''(i) beginning on the date of the enactment of this paragraph, and

''(ii) ending on the last day of the first fiscal year for which the surplus in the corporation's multiemployer insurance program is less than 50 percent of such surplus for the fiscal year ending September 30, 1995.

''(C) For purposes of subparagraph (B), the surplus for any fiscal year shall be the surplus reflected in the Statement of Financial Condition for the fiscal year contained in the corporation's annual report, except that the assumptions used in computing such surplus shall be the same as those used for the fiscal year ending September 30, 1995.''

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1466. WAIVER OF EXCISE TAX ON FAILURE TO PAY LIQUIDITY SHORTFALL.

(a) IN GENERAL.—Section 4971(f) (relating to failure to pay liquidity shortfall) is amended by adding at the end the following new paragraph:

''(4) WAIVER BY SECRETARY.—If the taxpayer establishes to the satisfaction of the Secretary that—

''(A) the liquidity shortfall described in paragraph (1) was due to reasonable cause and not willful neglect, and

''(B) reasonable steps have been taken to remedy such liquidity shortfall,

the Secretary may waive all or part of the tax imposed by this subsection.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by clause (ii) of section 751(a)(9)(B) of the Retirement Protection Act of 1994 (108 Stat. 5020).

On page 394, line 1, strike ''**1459**'' and insert ''**1467**''.

On page 417, lines 5 and 6, strike ''after June 30 in calendar year 1996, and in calendar years after 1996'' and insert ''in calendar years after 1995''.

On page 417, line 11, strike ''take effect on July 1, 1996'' and insert ''apply with respect to sales occurring after the date which is 7 days after the date of the enactment of this Act''.

On page 421, line 7, strike ''December 31, 1996'' and insert ''April 15, 1997''.

On page 421, lines 11 and 12, strike ''December 31, 1996'' and insert ''April 15, 1997''.

On page 421, line 21, strike ''December 31, 1996'' and insert ''April 15, 1997''.

On page 422, line 2, strike ''January 1, 1997'' and insert ''April 16, 1997''.

On page 422, line 7, strike ''January 1, 1997'' and insert ''April 16, 1997''.

On page 422, lines 18 and 19, strike ''December 31, 1996'' and insert ''April 15, 1997''.

On page 427, line 23, strike ''amendment'' and insert ''amendments''.

On page 438, between lines 19 and 20, insert the following:

SEC. 1612. ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.

(a) IN GENERAL.—Subsection (d) of section 150 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(3) ELECTION TO CEASE STATUS AS QUALIFIED SCHOLARSHIP FUNDING CORPORATION.—

''(A) IN GENERAL.—Any qualified scholarship funding bond, and qualified student loan bond, outstanding on the date of the issuer's election under this paragraph (and any bond (or series of bonds) issued to refund such a bond) shall not fail to be a tax-exempt bond solely because the issuer ceases to be described in subparagraphs (A) and (B) of paragraph (2) if the issuer meets the requirements of subparagraphs (B) and (C) of this paragraph.

''(B) ASSETS AND LIABILITIES OF ISSUER TRANSFERRED TO TAXABLE SUBSIDIARY.—The requirements of this subparagraph are met by an issuer if—

''(i) all of the student loan notes of the issuer and other assets pledged to secure the repayment of qualified scholarship funding bond indebtedness of the issuer are transferred to another corporation within a reasonable period after the election is made under this paragraph;

''(ii) such transferee corporation assumes or otherwise provides for the payment of all of the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election is made under this paragraph;

''(iii) to the extent permitted by law, such transferee corporation assumes all of the responsibilities, and succeeds to all of the rights, of the issuer under the issuer's agreements with the Secretary of Education in respect of student loans;

''(iv) immediately after such transfer, the issuer, together with any other issuer which has made an election under this paragraph in respect of such transferee, hold all of the senior stock in such transferee corporation; and

''(v) such transferee corporation is not exempt from tax under this chapter.

''(C) ISSUER TO OPERATE AS INDEPENDENT ORGANIZATION DESCRIBED IN SECTION 501(C)(3).—The requirements of this subparagraph are met by an issuer if, within a reasonable period after the transfer referred to in subparagraph (B)—

''(i) the issuer is described in section 501(c)(3) and exempt from tax under section 501(a);

''(ii) the issuer no longer is described in subparagraphs (A) and (B) of paragraph (2); and

''(iii) at least 80 percent of the members of the board of directors of the issuer are independent members.

''(D) SENIOR STOCK.—For purposes of this paragraph, the term 'senior stock' means stock—

''(i) which participates pro rata and fully in the equity value of the corporation with all other common stock of the corporation but which has the right to payment of liquidation proceeds prior to payment of liquidation proceeds in respect of other common stock of the corporation;

''(ii) which has a fixed right upon liquidation and upon redemption to an amount equal to the greater of—

''(I) the fair market value of such stock on the date of liquidation or redemption (whichever is applicable); or

''(II) the fair market value of all assets transferred in exchange for such stock and reduced by the amount of all liabilities of the corporation which has made an election under this paragraph assumed by the transferee corporation in such transfer;

''(iii) the holder of which has the right to require the transferee corporation to redeem on a date that is not later than 10 years after the date on which an election under this paragraph was made and pursuant to such election such stock was issued; and

''(iv) in respect of which, during the time such stock is outstanding, there is not outstanding any equity interest in the corporation having any liquidation, redemption or dividend rights in the corporation which are superior to those of such stock.

''(E) INDEPENDENT MEMBER.—The term 'independent member' means a member of the board of directors of the issuer who (except for services as a member of such board) receives no compensation directly or indirectly—

''(i) for services performed in connection with such transferee corporation, or

''(ii) for services as a member of the board of directors or as an officer of such transferee corporation.

For purposes of clause (ii), the term 'officer' includes any individual having powers or responsibilities similar to those of officers.

''(F) COORDINATION WITH CERTAIN PRIVATE FOUNDATION TAXES.—For purposes of sections 4942 (relating to the excise tax on a failure to distribute income) and 4943 (relating to the excise tax on excess business holdings), the transferee corporation referred to in subparagraph (B) shall be treated as a functionally related business (within the meaning of section 4942(j)(4)) with respect to the issuer during the period commencing with the date on which an election is made under this paragraph and ending on the date that is the earlier of—

''(i) the last day of the last taxable year for which more than 50 percent of the gross income of such transferee corporation is derived from, or more than 50 percent of the assets (by value) of such transferee corporation consists of, student loan notes incurred under the Higher Education Act of 1965; or

''(ii) the last day of the taxable year of the issuer during which occurs the date which is 10 years after the date on which the election under this paragraph is made.

''(G) ELECTION.—An election under this paragraph may be revoked only with the consent of the Secretary.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 1613. CERTAIN TAX BENEFITS DENIED TO INDIVIDUALS FAILING TO PROVIDE TAXPAYER IDENTIFICATION NUMBERS.

(a) PERSONAL EXEMPTION.—

(1) IN GENERAL.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by adding at the end the following new subsection:

''(e) IDENTIFYING INFORMATION REQUIRED.—No exemption shall be allowed under this section with respect to any individual unless the TIN of such individual is included on the return claiming the exemption.''

(2) CONFORMING AMENDMENTS.—

(A) Subsection (e) of section 6109 is repealed.

(B) Section 6724(d)(3) is amended by adding ''and'' at the end of subparagraph (C), by striking subparagraph (D), and by redesignating subparagraph (E) as subparagraph (D).

(b) DEPENDENT CARE CREDIT.—Subsection (e) of section 21 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by adding at the end the following new paragraph:

''(10) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO QUALIFYING INDIVIDUALS.—No credit shall be allowed under this section

with respect to any qualifying individual unless the TIN of such individual is included on the return claiming the credit.''

(c) EXTENSION OF PROCEDURES APPLICABLE TO MATHEMATICAL OR CLERICAL ERRORS.—Section 6213(g)(2) (relating to the definition of mathematical or clerical errors) is amended by striking ''and' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by inserting at the end the following new subparagraph:

''(F) an omission of a correct TIN required under section 21 (relating to expenses for household and dependent care services necessary for gainful employment) or section 151 (relating to allowance of deductions for personal exemptions).''

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to returns the due date for which (without regard to extensions) is on or after the 30th day after the date of the enactment of this Act.

(2) SPECIAL RULE FOR 1995 AND 1996.—In the case of returns for taxable years beginning in 1995 or 1996, a taxpayer shall not be required by the amendments made by this section to provide a taxpayer identification number for a child who is born after October 31, 1995, in the case of a taxable year beginning in 1995 or November 30, 1996, in the case of a taxable year beginning in 1996.

On page 486, between lines 21 and 22, insert:

(d) COMPARABLE ESTATE AND GIFT TAX TREATMENT.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Subsection (a) of section 2107 is amended to read as follows:

''(a) TREATMENT OF EXPATRIATES.—

''(1) RATE OF TAX.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident who is an expatriate if the expatriation date of the decedent is within the 10-year period ending with the date of death, unless such expatriation did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

''(2) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of paragraph (1), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is a covered expatriate.

''(3) DEFINITIONS.—For purposes of this subsection, the terms 'expatriate', 'expatriation date', and 'covered expatriate' have the meanings given such terms by section 877A.''

(B) CREDIT FOR FOREIGN DEATH TAXES.—Subsection (c) of section 2107 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) CREDIT FOR FOREIGN DEATH TAXES.—

''(A) IN GENERAL.—The tax imposed by subsection (a) shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of any property which is included in the gross estate solely by reason of subsection (b).

''(B) LIMITATIONS ON CREDIT.—The credit allowed by subparagraph (A) for such taxes paid to a foreign country shall not exceed the lesser of—

''(i) the amount which bears the same ratio to the amount of such taxes actually paid to such foreign country in respect of property included in the gross estate as the value of the property included in the gross estate solely by reason of subsection (b) bears to the value of all property subjected to such taxes by such foreign country, or

''(ii) such property's proportionate share of the excess of—

''(I) the tax imposed by subsection (a), over

''(II) the tax which would be imposed by section 2101 but for this section.

The amount applicable under clause (i) or (ii) shall be reduced by the amount of any credit allowed under section 877A(i).

''(C) PROPORTIONATE SHARE.—For purposes of subparagraph (B), a property's proportionate share is the percentage of the value of the property which is included in the gross estate solely by reason of subsection (b) bears to the total value of the gross estate.''

(C) EXPANSION OF INCLUSION IN GROSS ESTATE OF STOCK OF FOREIGN CORPORATIONS.—Paragraph (2) of section 2107(b) is amended by striking ''more than 50 percent of'' and all that follows and inserting ''more than 50 percent of—

''(A) the total combined voting power of all classes of stock entitled to vote of such corporation, or

''(B) the total value of the stock of such corporation,''.

(2) GIFT TAX.—

(A) IN GENERAL.—Paragraph (3) of section 2501(a) is amended to read as follows:

''(3) EXCEPTION.—

''(A) CERTAIN INDIVIDUALS.—Paragraph (2) shall not apply in the case of a donor who is an expatriate if the expatriation date of the donor is within the 10-year period ending with the date of transfer, unless such expatriation did not have for 1 of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

''(B) CERTAIN INDIVIDUALS TREATED AS HAVING TAX AVOIDANCE PURPOSE.—For purposes of subparagraph (A), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is a covered expatriate.

''(C) CREDIT FOR FOREIGN GIFT TAXES.—The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph. The amount of such credit shall be reduced by the amount of the credit allowed under section 877A(i).

''(D) DEFINITIONS.—For purposes of this paragraph, the term 'expatriate', 'expatriation date', and 'covered expatriate' have the meanings given such terms by section 877A.''

On page 486, line 22, strike ''(d)'' and insert ''(e)''.

On page 487, line 19, strike ''(e)'' and insert ''(f)''.

On page 487, line 23, strike ''(f)'' and insert ''(g)''.

On page 488, line 21, strike ''(d)(1)'' and insert ''(e)(1)''.

On page 501, strike lines 16 through 25, and redesignate the subsequent paragraphs accordingly.

On page 512, strike lines 1 through 11, and insert:

''(i) EFFECTIVE DATE.—Except as otherwise expressly provided, any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1990 to which such amendment relates.

On page 521, line 6, strike ''(1)'' and insert ''(1) IN GENERAL.—''.

On page 521, line 13, strike ''(2)'' and insert ''(2) EFFECTIVE DATE.—''.

On page 571, line 5, strike ''contribution to'' and insert ''distribution from''.

THE TEAMWORK FOR EMPLOYEES AND MANAGEMENT ACT OF 1996

DORGAN AMENDMENT NO. 4437

Mr. DORGAN proposed an amendment to the bill (S. 295) to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Teamwork for Employees and Management Act of 1995'';

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the escalating demands of global competition have compelled an increasing number of American employers to make dramatic changes in work-place and employer-employee relationships;

(2) these changes involve an enhanced role for the employee in workplace decision-making, often referred to as ''employee involvement'', which has taken many forms, including self-managed work teams, quality-of-worklife, quality circles, and joint labor-management committees;

(3) employee involvement structures, which operate successfully in both unionized and non-unionized settings, have been established by over 80 percent of the largest employers of the United States and exist in an estimated 30,000 workplaces;

(4) in addition to enhancing the productivity and competitiveness of American businesses, employee involvement structures have had a positive impact on the lives of those employees, better enabling them to reach their potential in their working lives;

(5) recognizing that foreign competitors have successfully utilized employee involvement techniques, Congress has consistently joined business, labor, and academic leaders in encouraging and recognizing successful employee involvement structures in the workplace through such incentives as the Malcolm Baldrige National Quality Award;

(6) employers who have instituted legitimate employee involvement structures have not done so to interfere with the collective bargaining rights guaranteed by the labor laws, as was the case in the 1930s when employers established deceptive sham ''company unions'' to avoid unionization; and

(7) the prohibition of the National Labor Relations Act against employer domination or interference with the formation or administration of a labor organization has produced uncertainty and apprehension among employers regarding the continued development of employee involvement structures.

(b) PURPOSES.—It is the purpose of this Act to—

(1) protect legitimate employee involvement structures against governmental interference;

(2) preserve existing protections against deceptive, coercive employer practices; and

(3) permit legitimate employee involvement structures where workers may discuss issues involving terms and conditions of employment, to continue to evolve and proliferate.

SEC. 3. LABOR PRACTICES.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end thereof the following new subsection:

''(h)(1) The following provisions shall apply with respect to any employees who are not represented by an exclusive representative pursuant to section 9(a) or 8(f):

''(A) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to meet with the employees as a group, or to meet with each of the employees individually, to share information, to brainstorm, or receive suggestions or opinions from individual employees, with respect to matters of mutual interest, including matters relating to working conditions.

''(B) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to assign employees to work units and to hold regular meetings of the employees assigned to a work unit to discuss matters relating to the work responsibilities of the unit. The meetings may, on occasion, include discussions with respect to the conditions of work of the employees assigned to the unit.

''(C) It shall not constitute or be evidence of an unfair labor practice under section 8(a)(2) for an employer to establish a committee composed of employees of the employer to make recommendations or determinations on ways of improving the quality of, or method of producing and distributing, the employer's product or service and to hold regular meetings of the committee to discuss matters relating to the committee. The meetings may, on occasion, include discussions with respect to any directly related issues concerning conditions of work of the employees.

''(2) The provisions of paragraph (1) shall not apply if—

''(A) a labor organization is the representative of the employees as provided in section 9(a);

''(B) the employer creates or alters the work unit or committee during any organizational activity among the employer's employees or discourages employees from exercising the rights of the employees under section 7;

''(C) the employer interferes with, restrains, or coerces any employee because of the employee's participation in or refusal to participate in discussions with respect to conditions of work, which otherwise would be permitted by subparagraphs (A) through (C) of paragraph (1); or

''(D) an employer establishes or maintains a group, unit, or committee authorized by subparagraph (A), (B), or (C) of paragraph (1) that discusses conditions of work of employees who are represented under section 9 without first engaging in the collective bargaining required by this Act.

''(3) An employee who participates in a group, unit, or committee described in subparagraph (A), (B), or (C) of paragraph (1) shall not be considered to be a supervisor or manager because of the participation of the employee in the group, unit, or committee.''.

KASSEBAUM AMENDMENT NO. 4438

Mrs. KASSEBAUM proposed an amendment to the bill, S. 295, supra; as follows:

Strike all after first word and insert the following:

1. SHORT TITLE.

This Act may be cited as the ''Teamwork for Employees and Managers Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the escalating demands of global competition have compelled an increasing number of employers in the United States to make dramatic changes in workplace and employer-employee relationships;

(2) such changes involve an enhanced role for the employee in workplace decisionmaking, often referred to as ''Employee Involvement'', which has taken many forms, including self-managed work teams, quality-of-worklife, quality circles, and joint labor-management committees;

(3) Employee Involvement programs, which operate successfully in both unionized and nonunionized settings, have been established by over 80 percent of the largest employers in the United States and exist in an estimated 30,000 workplaces;

(4) in addition to enhancing the productivity and competitiveness of businesses in the United States, Employee Involvement programs have had a positive impact on the lives of such employees, better enabling them to reach their potential in the workforce;

(5) recognizing that foreign competitors have successfully utilized Employee Involvement techniques, the Congress has consistently joined business, labor and academic leaders in encouraging and recognizing successful Employee Involvement programs in the workplace through such incentives as the Malcolm Baldrige National Quality Award;

(6) employers who have instituted legitimate Employee Involvement programs have not done so to interfere with the collective bargaining rights guaranteed by the labor laws, as was the case in the 1930's when employers established deceptive sham ''company unions'' to avoid unionization; and

(7) Employee Involvement is currently threatened by legal interpretations of the prohibition against employer-dominated ''company unions''.

(b) PURPOSES.—The purpose of this Act is—

(1) to protect legitimate Employee Involvement programs against governmental interference;

(2) to preserve existing protections against deceptive, coercive employer practices; and

(3) to allow legitimate Employee Involvement programs, in which workers may discuss issues involving terms and conditions of employment, to continue to evolve and proliferate.

SEC. 3. EMPLOYER EXCEPTION.

Section 8(a)(2) of the National Labor Relations Act is amended by striking the semicolon and inserting the following: '': *Provided further*, That it shall not constitute or be evidence of an unfair labor practice under this paragraph for an employer to establish, assist, maintain, or participate in any organization or entity of any kind, in which employees who participate to at least the same extent practicable as representatives of management participate, to address matters of mutual interest, including, but not limited to, issues of quality, productivity, efficiency, and safety and health, and which does not have, claim, or seek authority to be the exclusive bargaining representative of the employees or to negotiate or enter into collective bargaining agreements with the employer or to amend existing collective bargaining agreements between the employer and any labor organization, except that in a case in which a labor organization is the representative of such employees as provided in section 9(a), this proviso shall not apply;''.

SEC. 4. LIMITATION ON EFFECT OF ACT.

Nothing in this Act shall affect employee rights and responsibilities contained in provisions other than section 8(a)(2) of the National Labor Relations Act, as amended.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Tuesday, July 9, 1996, in open/closed session, to receive a report on the bombing of United States military facilities in Saudi Arabia on June 25, 1996.

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

COMMITTEE ON ARMED SERVICES

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 4 p.m. on Tuesday, July 9, 1996, in open session, to consider the nomination of Mr. Andrew S. Effron to be a judge of the U.S. Court of Appeals for the Armed Services.

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

SELECT COMMITTEE ON INTELLIGENCE

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, July 9, 1996, at 8 a.m. to hold a closed hearing on intelligence matters and 11:30 a.m. to hold an open hearing on intelligence matters.

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

ADDITIONAL STATEMENTS

TRIBUTE TO PETER J. MORGERA AND HIS SERVICE TO THE AIR FORCE

Mr. SMITH. Mr. President, I rise today to pay tribute to A1c. Peter J. Morgera of Stratham, NH. Last Tuesday, this courageous young man fell victim to a tragic act of terrorism at the United States military complex in Dhahran, Saudi Arabia. Peter leaves behind his parents, Richard and Diane, and his two brothers, Tommy and Michael. He honored his country by serving overseas in Saudi Arabia and his family and community will miss him greatly.

Peter, a 25-year-old flight mechanic, was one of 19 American servicemen who lost their lives just 2 weeks ago when a truck bomb detonated outside military housing in Dhahran, Saudi Arabia. This blast which, in addition to taking the lives of Peter and 19 others, wounded 270 and was the worst incident of terrorism since the attack in Beirut in 1983. Peter, who was scheduled to return home on June 30, had served his country for 3 years in the Air Force.

Peter was a 1990 graduate of Exeter Area High School and is described by those who knew him as a great person, a hard worker, and someone who was always ready to lend a hand. When remembering Peter, his family and friends invariably mention his strong sense of community spirit and compassionate nature. He always did everything he could to help people when they needed it. At age 16, Peter began working with the Stratham Volunteer Fire Department and his fellow firefighters described him as extremely reliable and an excellent co-worker. One of the many ways he served the community was through teaching fire prevention at area schools. Peter had the kind of love for family and community this country is built upon, and it is individuals such as him that make this country great.

Peter's memory will be one of leadership and charity. He chose not to ignore the needs of those around him but to help meet those needs. Whether

someone needed a helping hand or just a friendly face, Peter was there. Just last week, he was honored, along with his fellow servicemen who also died in the blast, at a special funeral ceremony by President Clinton. He served not only his community but his country as well, and his country will never forget his service or his sacrifice. We should, however, look beyond the tragedy of this great loss and let Peter's sacrifice be an example for us all. Although he left this world prematurely, he touched many lives with his caring ways and his memory will endure in many hearts.

Although Peter's death weighs heavily in the hearts of his family and friends, we should not dwell in sadness, but remember his zeal for life and continue to uphold those principles which he held dear. Peter's dedication to community was the embodiment of the American ideal, people like him are the backbone of their communities and the Nation. He gave his life as a guardian of the community and the Nation he loved so well. Therefore, let us mark this tragedy and remember what we have lost, but let us also celebrate Peter's life and the light he gave to those around him. His family and community will miss him dearly and honor him as a valiant American.

PASSAGE OF H.R. 3121

• Mr. SARBANES. Mr. President, today by unanimous consent the House approved H.R. 3121, a bill that will make a real contribution to increasing transparency and improving congressional oversight over arms transfers. In taking this action, the House accepted the Senate-passed amendments, obviating the need for a conference and clearing the bill for signature by the President. Since no report was filed with the bill in the Senate, I would like to take this opportunity to explain some of the changes that were made in the Foreign Relations Committee, and the rationale behind them.

First, we deleted a section that would have raised the thresholds above which arms sales must be notified to Congress. The current levels—$14 million for major defense equipment, $50 million for any defense articles or services, and $200 million for design and construction services—cannot be raised without reducing effective oversight, particularly since many of the most serious abuses of human rights take place with less sophisticated weapons systems.

Second, we lengthened the notification period for grant transfers of excess defense articles to 30 days, which is the current standard under section 516 of the Foreign Assistance Act of 1961. H.R. 3121 streamlines the existing excess defense article authorities, giving the administration added flexibility in many areas in exchange for a tight cap on the value of weapons that are provided to foreign countries without cost. Although it would have been preferable that this new cap of $350 million be calculated according to original acquisition cost rather than current value, the important point is that the cap is a firm one.

I remain concerned, however, about procedures for determining the current value of excess defense articles. In January 1994, a GAO report found that ''irregularities in pricing/valuing EDA's compromise the reliability of EDA data.'' It concluded that ''the military services did not always adhere to guidelines for pricing/valuing EDA's, and as a result, the acquisition and current values of the EDA program were understated.''

According to pricing directives now in effect, equipment may be valued at anywhere between 5 and 50 percent of its original acquisition cost, depending on its age and condition. Over the past 4 years the current values have averaged about 25 percent of acquisition costs. It is the congressional expectation that, in implementing this provision, the Secretary of Defense will instruct the military services to adhere consistently to pricing directives that accurately reflect the value of the article to be transferred. Pricing decisions must be made without regard to the recipient of the article or to the amount of equipment that could be transferred within the statutory ceiling.

A third change to the initial version of the bill is a renewal of the requirement in current law that excess defense articles be offered to Greece and Turkey at the same ratio that applies to foreign military financing. The purpose of this provision is to promote peace and stability in the eastern Mediterranean by maintaining the military balance and restraining arms transfers to the region.

Fourth, we have reinstated an annual report that will show all the defense articles and services the United States provided to each foreign country in the previous fiscal year. There is growing concern about the proliferation of authorities under which the United States provides military aid, weapons and training to foreign countries. In addition to traditional sources such as grant military aid, international military education and training, leases and loans, and commercial sales, there have now been added such authorities as excess defense article transfers, drawdowns, cascading under the CFE Treaty, the defense export loan guarantee facility, and the military-to-military contacts program. Obviously it is important that, in making foreign policy decisions, we have a complete picture of all the ways in which we are providing arms or military assistance to other countries.

Fifth, a provision was added repealing the sunset clause on the Nuclear Proliferation Prevention Act. The NPPA, which refines and expands sanctions against countries and companies that help non-nuclear weapon states to acquire nuclear weapons, would otherwise expire with the enactment of the next State Department authorization bill.

Finally, two new sections increase transparency in reporting of arms sales. Section 155 requires that certifications of government-to-government arms sales, which are submitted under section 36(b) of the Arms Export Control Act, and notifications of commercial arms sales, submitted under section 36(c), are printed in the Federal Register. Section 156 ensures that at least the name of the country and the type and quantity of equipment for which commercial export licenses are issued be publicly disclosed, unless the President determines this would be contrary to the national interest. This reverses the burden of proof that applies under current law, where commercial licenses are revealed only if the Secretary of State determines it to be in the national interest to do so. Both of these provisions are of particular interest to the arms control and human rights communities, who have experienced unnecessary difficulty in obtaining information about unclassified arms sales.•

ADDITIONAL COSPONSOR—S. 1898

• Mr. DOMENICI. Mr. President, on June 24, 1996, I introduced S. 1898, the Genetic Confidentiality and Nondiscrimination Act of 1996.

Due to an inadvertent error, Senator PAUL SIMON was not identified on the text of S. 1898 as an original cosponsor. While I referred to Senator SIMON's original cosponsorship numerous times during my floor statement and it is so noted in the CONGRESSIONAL RECORD, the printed bill does not reflect my distinguished colleague's cosponsorship.

Therefore, I have requested this date that Senator SIMON be added as an original cosponsor to S. 1898. I further request that in the future this bill be known as the Domenici-Simon bill, as it was intended to be when it was introduced on June 24.

Thank you for the opportunity to clarify this issue.•

JOB PROTECTION ACT OF 1996

• Mrs. MURRAY. Mr. President, I am pleased the Senate passed the Small Business Job Protection Act of 1996. However, I am disappointed the Senate rejected the Kennedy amendment to the minimum wage increase.

I cannot sit idly by as I hear of those struggling to live on today's minimum wage. I thought, as many of you do, that the typical minimum wage earner was someone like my daughter or one of her friends: a teenager flipping burgers or taking food orders to earn some extra cash for new clothes or a movie.

That, however, is a grave misperception. The sad fact is that 73 percent of those earning between $4.25 and $5.14 an hour are over the age of 20. That means that 9 million adults this year will have to try to live on a salary of $8,840. One-third of these same

adults are the sole sources of income for their families. If these workers were attempting to support a family of three, they would fall $2,682 below the Federal poverty line.

I am extremely concerned that 58 percent of those struggling with a minimum wage are women—5.2 million women, many of these single mothers, would benefit directly from this increase.

These single moms are trying. They are trying to raise two kids on a below-poverty income. And how does Congress reward a struggling parent's hard work? By attacking Medicaid that would have paid for her son's asthma medicine. By cutting the child care support that enables her to work. By taking away funding for nutrition programs that pay for her kids to eat at school or day care. By eliminating her Head Start Program that gives her kids a chance at coming to school ready and able to learn. By refusing to add 90 cents to her hourly wage—a wage that pays for heat, clothing and food.

Aren't these exactly the same individuals and families we are trying to keep employed and off of Federal support? Instead, this Congress has targeted the low-income family with cut after cut and a resistance to move them above the poverty line.

Mr. President, the Kennedy amendment would not have eliminated jobs. It would have barely kept people working—people who otherwise would be completely reliant on public support. If we had only passed this amendment a year ago, it would have meant that the single mother would have earned an additional $2,000 today.

To low-income families, that would have meant more than 7 months of groceries, 4 months of rent, a full year of health care costs, or 9 months of utility bills.

I did not reach my decision to support the minimum wage hastily. I have listened carefully to the concerns of small business owners from across my State, who have highlighted the implications of this increase. I don't want to see prices for the American consumer rise or jobs eliminated. But I don't think an increase to the minimum wage will end employment in small business, either.

It has now been more than 5 years since the last minimum wage increase. We must remember that the value of the current minimum wage has fallen by nearly 50 cents since 1991 and is now 27 percent lower than it was in 1979. Now is the time to adjust that inequality and demonstrate a true commitment to our working families.

A slight increase in this wage provides those who work hard and play by the rules an increased opportunity and a chance to succeed. If any of my colleagues opposes the minimum wage, I urge them to live on $8,840 this year and then reconsider their vote.

Mr. President, I want to take a minute to express my support for title I of H.R. 3448, the small business provisions. This section incorporates a variety of tax changes, pension simplifications and S corporation reforms that expand business opportunities for America's small businesses.

We all know small business is the engine that drives the American economy. As large corporations across the country downsize and consolidate, innovative small businesses expand and add jobs to the work force. In 1995, 22,000 individuals in Washington State were employed by software-related companies—66 percent of these companies are small businesses with less than 11 employees.

This legislation will only make it easier for these and other small businesses to invest in research and development, raise capital and spur economic growth.

Most importantly, the legislation reinstates several expired tax provisions including the research and development [R&D] tax credit and employer provided educational assistance.

The R&D tax credit is vital to small, technology-based companies that need to invest in long-term endeavors in order to stay competitive in rapidly changing business climates. At the same time, the employer-provided educational assistance is essential to maintaining a highly skilled, well-educated work force.

The legislation also improves the flexibility subchapter S corporations have when they set out to raise capital. Like S. 758, a bill which I cosponsored, this legislation raises the number of shareholders who can invest in S corporations. It increases the number from 35 to 75, and in doing so, this bill greatly increase an S corporation's ability to raise capital.

Mr. President, title I of this bill also incorporates two changes to our pension laws that were introduced in S. 1756, legislation I support that was introduced by Senator MOSELEY-BRAUN. First, the Treasury Department will be required to create a clear spousal consent form so that couples can make informed decisions about annuities. Also, Treasury will need to develop a qualified domestic relations order form spelling out how, to whom and when pension plans should be paid upon divorce. These provisions are essential to protecting spousal rights.

Finally, H.R. 3448 expands tax deductible IRA contributions to homemakers. This change will make retirement savings opportunities possible for individuals who work at home rather than in the work force. It will encourage greater savings in the United States, and it will improve retirement security for our hard-working homemakers.

Mr. President, even without the KENNEDY amendment, this legislation still goes a long way to helping over 10 million hard-working Americans. This legislation ultimately raises the minimum wage 90 cents over 2 years. It rewards our working families as they struggle to rise above the poverty line. I am proud the Senate took this important and eagerly awaited step today. ●

METRO DETROIT YOUTH DAY

● Mr. ABRAHAM. Mr. President, I rise to recognize today as Metro Detroit Youth Day in my home State of Michigan. I commend the many sponsors and organizers of this event, being held today at Belle Isle's athletic field in Detroit. Recognizing the importance of leisure and recreation in improving the lives of youth, the sponsors and organizers of Metro Detroit Youth Day have dedicated their time and resources to giving young people in Detroit an opportunity to participate in recreational activities in a safe, yet competitive, environment.

Metro Detroit Youth Day emphasizes the need for physical education and fitness with the need for good sportsmanship. It brings together community leaders, business leaders, service organizations, and young people. Over 14,000 youth and 700 volunteers will participate this year.

I would like to pay special tribute to the following cochairs of Detroit Youth Day. In chairing this event, they have given young people examples to follow and have been role models for many others in the community—both young and old. They truly have made this day count. And so, I commend Harold Edwards of MichCon; Edward Deeb of Michigan Food and Beverage Association; Sharon Williams of Omni-Care; Tom Moss of West Side Athletics; Detroit Police Chief Isiah McKinnon; Ernest Burkeen of the Detroit Recreation Department; and Keith Bennett with Starr Commonwealth Schools.

In 1991, Metro Detroit Youth Day received the 477th Point of Light Award. In the spirit of that award, I offer congratulations and thanks to all who continue to make Metro Detroit Youth Day a success.●

ORDER OF BUSINESS

Mr. DeWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

ORGAN DONATION STAMP

Mr. DeWINE. Mr. President, I rise this evening to talk about an issue that I have talked about on several occasions previously on the floor, and that has to do with a problem we have in this country, a serious problem, and that is a shortage of organ donors.

We need to raise the awareness of the American people about this very important issue. That is why today I am calling upon the Citizens Postal Advisory Committee to approve a postage stamp in honor of organ donation.

Every day in this country eight people die—eight people every single day die—who are on a waiting list, a waiting list to have an organ transplant operation. In 1994, over 3,000 Americans

died while waiting for an organ, 142 of them in my home State of Ohio.

As of May 1 of this year, which are the most current available figures that I have, there were 46,128 Americans on the waiting list for organs. That was an increase over the April numbers, just 1 month before.

On April 3, there were 45,583 people on the waiting list. So just in 1 month, over 500 people were added to that waiting list.

As of May 1, 32,256 people were waiting for kidneys. That is an increase of 344 people in less than a month.

On that same date, 6,273 people were waiting for a liver, and that is 137 more than in April.

On that same date, May 1, there were 1,339 people waiting for a kidney-pancreas transplant, 30 more than in April.

And on that same date, there were 3,599 people waiting for a new heart, 50 more than a month before on April 3.

Mr. President, if we ask our expert on this, our colleague from Tennessee, Dr. Frist, he will tell us these people can be helped. He will tell us these people did not have to die. He will tell us that the technology is there to save them and that what we are lacking is enough organ donations, what we are lacking is enough family members who lose a loved one who are willing, in a time of great tragedy and great hurt, to say, ''Yes; yes, I will agree to have my loved one's organs transplanted into someone else so they can live.''

The technology is there to save these lives. It is the organs that are missing. That is why all American families need to talk about this issue. It is something we as Americans do not want to talk about. We do not want to talk about death. We do not want to talk about funerals. We do not want to think a tragedy may strike. But it is important that we talk about this before something happens.

I am convinced, and, in fact, the statistics, polls and studies show it, the vast majority of Americans, if they thought they could help someone, would want their organs donated to save someone's life. The problem is that as a people, we do not talk about it; as families, we do not talk about it. So the next of kin, the families, the fathers, the mothers, the brothers, the sisters who have to make this decision do not really know what to do because that issue has never been discussed. That is why the national campaign is to get families to talk about it, because we believe if families do talk about this, they will ultimately make the right decision and lives will be saved.

We need to do everything we can to make sure that this issue does get the attention of all Americans. We need literally to start a conversation about this at the kitchen table of every single family in this country. We need to find creative ways to do this, creative ways to get people's attention.

There is one particular measure that I would like to talk about today that I think will get people's attention. Tomorrow, the citizens stamp advisory committee will meet to review and make recommendations for new postage stamps. Nearly 300,000 Americans have already signed a petition urging this stamp advisory committee to approve a postage stamp honoring organ and tissue donation. I believe that if we put our message on the envelopes of millions of Americans, we will strike an important blow for public awareness of the need for organs.

Here is one example of what the stamp could look like. I am not an artist. I did not draw this. Anybody who knows me knows I did not do this. But there are some creative people in our office who had some ideas, and they put this together. We bring it to the floor only to show what a stamp like this could look like, and the message is pretty basic: ''Organ Donation. Share Your Life . . . Share Your Decision.'' That is the national campaign for people to talk about it before tragedy does strike.

The green ribbon in this stamp symbolizes life. The stamp would send the message that organ donation is a gift of life. This is literally true. The donor shortage in this country is one of the most important problems in health care today and a problem that is not easily solved. I believe the stamp advisory committee should approve this organ donation stamp in the same spirit in which it approved this year's breast cancer awareness stamp.

By approving this stamp, the advisory committee will literally be saving lives. It will prompt exactly the kind of family discussions we have been trying to promote. This postage stamp would save lives and would save lives without major cost or major effort.

The advisory committee should heed the appeals of over 300,000 concerned Americans, including some Members of Congress, to go ahead and approve this stamp. By doing so, the postal advisory committee would send a strong message to all Americans about the life-saving decision every single family can make.

I thank the Chair, yield the floor and 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. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AUTHORIZING CONVEYANCE OF LANDS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of H.R. 701, and further, that the Senate proceed to its immediate consideration.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 701) to authorize the Secretary of Agriculture to convey lands to the City of Rolla, Missouri.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be deemed read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed in the appropriate place in the RECORD.

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

The bill (H.R. 701) was deemed read the third time and passed.

RELIEF OF BENCHMARK RAIL GROUP

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 436, H.R. 419.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 419) for the relief of Benchmark Rail Group, Inc.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be deemed read a third time, passed, and the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 419) was deemed read the third time and passed.

JOINT MEETING OF THE TWO HOUSES

Mr. LOTT. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort His Excellency Benjamin Netanyahu, Prime Minister of Israel, into the House Chamber for the joint meeting on Wednesday, July 10, 1996.

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

MEASURE READ FOR THE FIRST TIME—S. 1936

Mr. LOTT. Mr. President, I understand that S. 1936, introduced today by Senator CRAIG, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1936) to amend the Nuclear Waste Policy Act of 1982.

Mr. LOTT. I now ask for its second reading, and I object to my own request on behalf of the Senators on the Democratic side of the aisle.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

JUDICIAL NOMINATIONS

Mr. LOTT. Mr. President, with regard to the judicial nominations, I have a unanimous-consent request I will propound. I am sure the distinguished Democratic leader would like to engage in a colloquy. Before I do that, I want to point out what has occurred with regard to these nominations.

Some time ago, when I was still serving as majority whip, I did try to get a unanimous consent to move a block of four nominees to the Judiciary. Objection was heard on that on behalf of, I believe, the Senator from Montana, who had a judge that was not on the list, that he wanted to make sure was considered.

Subsequent to that, I tried a second time to get those four cleared, and an objection was heard from the Senator from Montana because he still was not satisfied with the assurances with regard to his own judge for district court position in Montana. I assured him at the time we would continue to work to try to get clearance on that nominee, that there were some objections, some holds that had been lodged against that nominee, and therefore it could not be included in that group.

Once I was elected majority leader, in fact, I did continue to work on those four and others. On the Friday before the Fourth of July recess, we were able to get, preliminarily, 10 judges cleared. There was some last-minute problem with one of those 10, so we still had a group of nine judges that we had cleared on this side of the aisle, but, again, there was an objection heard on the Democratic side of the aisle.

In an abundance of good effort to try to see if we cannot move some of these nominations where there are not, and, in fact, should not be objections, I have decided now I will try to bring up a judge each day over the next several days to see if we cannot get them cleared. I think it is a legitimate way. I have tried to do them in a group of four. I have tried to do them in a group of nine. Now I will try to do them one-by-one. Some of these judges—three or four—are supported by Republicans. The others are Democratic nominees. I would go back and forth for a while. But, overall, there will be several more that are being actively supported by the Democrats than by the Republicans.

Once again, I am trying to be fair in how we do that. My intent would be to begin today with the nominee from Missouri, and go then, on Wednesday, with a nominee from Louisiana, because this particular nominee is a person that serves in the court system—I guess she may be a supreme court judge in Louisiana—and there is a qualifying deadline between Wednesday and Friday of this week for her to either seek reelection or to know whether she is going to be confirmed by the Senate or not. I am trying to move forward in recognition of that particular problem that she has and within the timeframe. Then we would go down the line.

I have submitted to the Democratic leader a list of nine judges that I would intend to do over this week and next week. And then beyond that, I would continue to work and see basically how things go. If we are getting some of these done, we will continue to try to do them. If we hear objections every day, I do not know what else to do. I have tried a group of four, a group of nine, and I am trying them one at a time. I feel like my hands would be clean, and I do not see how there could be objection to us not moving these judges.

I wanted to lay that predicate and explain what is happening. Some feel that none of these judges should be confirmed. Others, including myself, feel like several of them have been pending for a good long while, and unless there is a serious problem with the education, or qualifications, or ethics, we ought to try to move them. That is what I have been working assiduously to do. I am not doing it just by picking a name out of the hat. I am carefully looking at the judges and finding out if there are any problems, and as we get them cleared we can move down the line. Then I will move to the next judge or judges to see if they are, in fact, qualified.

There is no question that, philosophically, I have problems with a lot of them. I am not using that as a basis or a guide stick. I am trying to take them up in a logical order to try to get the calendar acted on in this regard.

UNANIMOUS-CONSENT REQUEST

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider Executive Calendar No. 514, the nomination of Gary Fenner, to be a U.S. district judge for the western district of Missouri.

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, and that any statements relating to the nomination appear at the appropriate place in the RECORD, that the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

Mr. DASCHLE. Mr. President, reserving the right to object. First, let me commend the majority leader for his effort to try to resolve this impasse. I believe that he has attempted to act in good faith. He and I have had innumerable conversations about this and have tried to find ways in which to address it in a meaningful way and a satisfactory way to both sides.

He mentioned the effort the day we left prior to the July 4 break. Through no fault of his, necessarily, we were left with trying to clear this list while everybody was on airplanes going in about 15 different directions. So it was not our lack of effort or some concerted desire on the part of Democrats to oppose the list. But given the fact that after the Chamber had cleared and people had gotten on airplanes, as we attempted to reach people to see whether we could clear it, it was virtually impossible from a practical point of view.

He mentioned the fact that he has tried to bring up small groups and has found that it is difficult to get an agreement on even a small group, and so he is going to take them individually. Mr. President, the issue is not the size of the group, whether it is one, four, or nine. The issue is, what assurance do those who are not on the list, whether it is 1 of the remaining 22, or 1 of the remaining 19, or 1 of the remaining—in this case it would be 12—that they, too, will have an opportunity to have their judge considered?

So, earlier today, I discussed with the distinguished majority leader whether or not it would be possible at least to lay out a calendar, whereby every judge could be assured that on a given day during this work period that particular nomination would be considered. The distinguished leader is not able to do that this afternoon. So then we talked about whether or not it would be possible to at least have the assurance that all 23 would be considered between now and the August recess. The majority leader again was unable to give me that assurance.

Well, then, he did indicate to me that he would be willing to do the first 17. But I notice on Tuesday, July 16, Mr. Lawrence Kahn of New York, Calendar No. 678, is one of those beyond the first 17. It is in that group that was just passed out of committee in the final six. So if he is not willing to do all 23, but is willing then to do 100 percent of the Republican nominees—and there are only 3 or 4—and leave all of the balance on the Democratic list to be taken up at some uncertain time, with no commitment that we are ultimately going to at least be able to try to deal with these issues between now and the August recess, our colleagues have indicated to me as late as just a few minutes ago that, on that basis, on that limited assurance, they are not satisfied that they are going to be able to address their judgeships as well, and they are not convinced that this is a satisfactory way to go.

I applaud the majority leader for his innovation. I do not think that it is necessarily the fact that they were in small groups that was the problem. So taking them up one-by-one may not solve the matter, so long as we find the uncertainty about what happens after July 19 and we have dealt with the first nine.

So, Mr. President, based upon those concerns and the reservations expressed to me by my colleagues, as I

said, just a matter of moments ago, I will have to object to this unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, before we move to the closing script, let me respond to some of the comments made by the distinguished Democratic leader.

First, I will ask a question. You mentioned a Judge Kahn of New York, that he was not on the list. Is that what the Senator said?

Mr. DASCHLE. No. What I said was that the majority leader had indicated to me that he was not prepared to consider at this point the final six judges which were added to the Executive Calendar. Yet, we find on Tuesday, July 16, Calendar No. 678 is one of those judges who were reported out most recently by the Judiciary Committee, and is a component of that final six. He happens to be a Republican. Now, I do not imply by that that the majority leader had special design on just this Republican nominee. But if we are willing to do it for the Republican nominee just reported out of committee, it would seem to me that we ought to do it for the five Democrats as well. That was the issue I attempted to raise.

Mr. LOTT. Mr. President, let me comment because I wanted to clarify that. The problem has been that we had, I think, 16 or 17 judges that had been reported out of the Judiciary Committee, and objections had been heard from any Senators that did not have their judge in that group of 4 or 9. So in order to not have objections, I guess we would have had to have had all 16 or 17 of them cleared that had been reported before June 27. We could not clear them, all 16 or 17 of them, so I thought we would get a block of as many as we could. But we are in a position where any Senator that does not have his cleared is going to object, apparently, to any combination I come up with.

Mr. DASCHLE. Will the distinguished majority leader yield on that point?

Mr. LOTT. Certainly.

Mr. DASCHLE. Because, for the record, I think we ought to see if we can resolve at least our understanding of where both sides are.

We have expressed a desire to work with the majority in terms of putting a list together whereby at least a Senator, if not having cleared the nominee, at least would know that his nominee would come up sometime between now and the August recess.

The distinguished leader will acknowledge that we have talked about at least scheduling for purposes of consideration a given nominee. Everyone recognizes that in order for this system to work, we are going to have to have cooperation on both sides.

Mr. LOTT. Sure.

Mr. DASCHLE. We are not asking today that everybody be cleared. All we are asking is that we have some assurance that every one of the nominees on the Executive Calendar will have the opportunity at least to be considered. Then we will go to the next step at a later date.

Mr. LOTT. If I could continue, Mr. President, the other suggestion was made that all of the so-called Republican nominees are on the list. In fact, I am not all that sure which ones are Republican and which ones are Democrat. I started this thing off thinking that they were all probably supported by Democrats. For instance, I understand that one not on the list is the nominee from Ohio which maybe is at least supported by Senator DEWINE.

So I mean, the intent would be to bring it up later on. But I felt that I gave this list for 2 weeks and I did not have time to give four or five names for the third week. So that is why I stopped. So there is at least one and maybe more that are supported by Republicans. I do not really ask for that. What I try to do is see if there are real holds on it; see if they are legitimate. If they have legitimate concerns, I try to move on and get the others.

Also, if you are ever going to bring these up in such a way that you can bring it up and insist that the Senator or Senators who have objections voice those objections and then be prepared to move them, I really think I need to do that one by one. That is what I am trying to do here. If I bring up all 17, or 16 that were pending before June 27, you can be almost certain that there will be objections heard.

So I do not know what to do. I have tried to do it in groups. I have tried it singly, and I am going to continue to try to do that.

Two other opinions, and then I will yield for other comments.

Seven of these new ones were reported next to the last day, I think, that we were in session on Thursday, the 27th. I have not had time to look at all of those. But I am going to. I plan to do that in relatively short order to see what the prospects are. I am prepared to move on to some of those that are not on this list of nine, and it may be that I will continue to try to do one a day at least for a while and see if there is objection. Conversely, if we begin to get some of them agreed to, we might try another block.

But I am trying to be cooperative. I would like to get as many of these done—I cannot tell you this afternoon that I am going to be able to bring up all 23 of them at all.

One of the problems that we have is we have a lot of work to do; must do work. The Democrats can slow roll us, if they want to. They can stop bills, or they can delay bills, or whatever. But there are a certain number of things that we have to do before we get through this year.

I think, also, I am entitled to be given a little bit of benefit of the doubt for a while. We have been keeping our word to each other. I am telling you that I am working these nominations. I am going to continue to work them. And until I do not do something which I tell you I am going to do—that is one reason I cannot make a commitment to you on the 23 because I am not sure I can keep that commitment.

So I am saying, give me a little time here. Give me a show of good faith. Give me a little trust. I have nine ready to go. I am going to continue to do it for a while. I am going to bring up the Louisiana nominee tomorrow and see if you object to a Democratically supported nominee. Then I am going to bring up the nominee from Colorado, which I presume is supported by a lot of Colorado Democrats because I understand philosophically he is a pretty liberal judge. But he is also supported by Senator BROWN.

Then I am going to go to the West Virginia judge that is supported very aggressively by the distinguished Senator from West Virginia, Senator BYRD.

That will take us through this week, and then sort of see where we are.

If you object to all of them, I will weigh that. If you object to one or two of them and let the other two go, we will kind of assess that.

The objection has already been heard. I will just say to the distinguished Democratic leader that I understand, and I am going to continue to work on it for a while. But you know we have a lot of other things that we need to get done, too.

I will try again and maybe by tomorrow afternoon your folks will have a new way of looking at it, and then we might come back to the Missouri judge at that point.

Mr. DASCHLE. Mr. President, let me emphasis that I want to give the distinguished majority leader plenty of benefit of the doubt, and I want to work with him in good faith. Obviously, he is attempting to work through a number of challenging scheduling questions. I applaud him for making that effort.

To the best of my ability, I intend to work with him as closely as I can. He has indicated that he does not know whether we can get through them all. I hope that he would say, ''At least I am going to try.'' That is all I am asking at this point, that the leader attempt to work with me to try to deal with all 23. If we fail for a lot of reasons, we may fail. But I think my colleagues would like very much to know that at least at some point between now and the August recess, given the fact that we are hoping to cooperate on a whole range of issues—the distinguished leader gave me a two-page, single-spaced list of legislative items that he wishes to bring up between now and the August recess. That is going to take a lot of cooperation on both sides of the aisle for us to get it done.

We have a defense bill that he wants to bring up this week. Hopefully we can work through that.

But the degree to which there is bipartisan cooperation has everything to

do with how much cooperation there is on both sides on issues that we both care about. My colleagues care very deeply about this list of judicial nominees.

I have said it before, but in 1992, with the same set of circumstances, even in September, I am told, our colleagues—the majority of my Democratic colleagues—passed out 66 district and circuit court judges—66.

In this session of Congress, so far it is zero. We have not confirmed one judge in this entire session of Congress. So, I will not belabor the point, except to say that so far there has been very little cooperation.

We are on a new watch. I know the majority leader wants to work very closely with us to try to resolve this matter. All I am saying is what we would simply like is his commitment to work with us, at least to take up the 23 and work through them one by one as he has proposed. We are not going to object as long as we know that all 23 at least will be considered.

So I expect to work with the leader, and perhaps tomorrow we can make some more progress. But at this point we have some more work to do.

Mr. LOTT. Mr. President, I do not want to belabor it any further at this point except for one point. I understand that he is suggesting that if we are going to get cooperation on the legislative agenda, they would want cooperation on the judicial nominations. I would submit the reverse also is true. If we get cooperation on the bills that need to be done for the good of the country—the Department of Defense appropriations bill, the foreign operations appropriations bill, the Treasury-Postal Service appropriations bill—then that would probably make it a little easier for me to be able to continue to move some of these things. So it works both ways. If we get cooperation on those bills, I feel a little more inclined to bear down and say we need to move some of these things.

But I want to say again, it is like the legislation: You can only do so much in a day or a week. The same thing is true of this. I can only go through the process of seeing what the problems are and seeing if we can get them cleared in a period of time.

Also, the last day we went out, I was talking with Senators on the telephone, on airplanes, I tried to get a couple of Senators on the same plane through the cockpit, and had staff waiting when they landed to clear the list of 10 that we had. So it is never easy around here. But I am working those, and I can assure the Senator I will continue to work this as long as I feel there is some show of good faith.

But I repeat, I tried four, I tried nine, and I am going to try them one a day for the next 4 days, and we will see where we are. But we can keep talking and see what kind of cooperation we get on the bills, and then you can see what kind of cooperation we get on the judges, and maybe we can go forward together.

ORDERS FOR WEDNESDAY, JULY 10, 1996

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. on Wednesday, July 10; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, 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 there then be a period for morning business until the hour of 11:30, with the following Senators to speak: Senator BINGAMAN, 10 minutes; Senator FAIRCLOTH, 15 minutes; Senator BURNS, 5 minutes.

I further ask immediately following morning business, the Senate resume the DOD authorization bill as under the previous order.

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

PROGRAM

Mr. LOTT. For the information of all Senators, all Senators are asked to be in the Senate Chamber tomorrow morning at 9:35 a.m., so we may proceed as a body at 9:40 to the House of Representatives to hear the address by the Prime Minister of Israel.

At 12 noon tomorrow, there will be a series of rollcall votes, with the first vote on passage of the defense authorization bill, to be followed by a vote on cloture on the motion to proceed to the national right-to-work legislation, to be followed by votes on the pending amendments to S. 295, the TEAM Act, as well as final passage of that bill.

Following those votes and a period for morning business, I expect the Senate to begin consideration of the Department of Defense appropriations bill. Additional votes can be expected during Wednesday's session.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. LOTT. If there be no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:15 p.m., adjourned until Wednesday, July 10, 1996, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate July 9, 1996:

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL IN THE U.S. NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. (SELECTEE) LYLE G. BIEN, 000–00–0000.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE APPLICABLE PROVISIONS OF SECTIONS 618, 624, AND 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be colonel

STEPHEN D. CHAIBOTTI, 000–00–0000
LAURENCE C. VLIET, 000–00–0000

To be lieutenant colonel

MICHAEL J. BEGLEY, 000–00–0000
PATRICK W. FLANAGAN, 000–00–0000
MARK R. FRANZ, 000–00–0000

To be major

MATTHEW J. BUNDY, 000–00–0000
DAVID S. DEVOL, 000–00–0000
JEFFREY W. EGGERS, 000–00–0000
DANIEL J. FLANIFAN, 000–00–0000
BRIAN C. FORD, 000–00–0000
TERENCE J. SPANN, 000–00–0000

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN THAT INDICATED.

LINE OF THE AIR FORCE

To be captain

JOHN W. WILKINSON, 000–00–0000

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE., TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL SERVICE CORPS

To be captain

JOHN M. LOPARDI, 000–00–0000

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE:

To be lieutenant colonel

RICHARD L. WEST, 000–00–0000

LIMITED DUTY OFFICER (LDO)

To be major

PAUL P. HARRIS, 000–00–0000

IN THE NAVY

THE FOLLOWING-NAMED U.S. AIR FORCE ACADEMY GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 541:

ANTHONY L. EVANGELISTA, 000–00–0000
JOE R. FONTES, JR., 000–00–0000
KATHERINE M. HAYDEN, 000–00–0000
DANIEL J. HOGAN, 000–00–0000
CHRISTOPHER P. KIRBY, 000–00–0000
JOSEPH P. KRIEGER, 000–00–0000
MICHAEL J. RAHM, 000–00–0000
JOHN S. SKINNER, 000–00–0000
ANTHONY W. WALLEY, 000–00–0000

THE FOLLOWING-NAMED U.S. NAVAL ACADEMY GRADUATE TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

LAURA C. MCCLELLAND, 000–00–0000