SENATE—*Thursday, May 1, 1997*

The Senate met at 10:30 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:

Almighty God, on this National Day of Prayer, we join with millions across our land in intercession and supplication to You, the Sovereign Lord of the United States of America. As we sound that sacred word Sovereign, we echo Washington, Jefferson, Madison, and Lincoln along with other leaders through the years, in declaring that You are our ultimate ruler. We make a new commitment to be one nation under You, God, and we place our trust in You.

You have promised that if Your people will humble themselves, seek Your face, and pray, You will answer and heal our land. Lord, as believers in You, we are Your people. You have called us to be salt in any bland neglect of our spiritual heritage and light in the darkness of what contradicts Your vision for our Nation. Give us courage to be accountable to You and Your Commandments. We repent for the pride, selfishness, and prejustice that often contradict your justice and righteousness in our society.

Lord of new beginnings, our Nation needs a great spiritual awakening. May this day of prayer be the beginning of that awakening with each of us in this Senate. We urgently ask that our honesty about the needs of our Nation and our humble confession of our spiritual hunger for You may sweep across this Nation. Hear the prayers of Your people and continue to bless America. In Your holy name, Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator COVERDELL of Georgia, is recognized.

SCHEDULE

Mr. COVERDELL. Mr. President, for the information of all Senators, this morning the Senate will begin consideration of S. 543, the Volunteer Protection Act. As a reminder, the previously ordered cloture votes for today are vitiated, and the Senate is now able to begin consideration of this important legislation. It is my understanding that amendments are expected to be offered to this bill. Therefore, Senators can anticipate votes throughout today's session of the Senate. It is the majority leader's hope that the Senate will be able to complete action on the Volunteer Protection Act today.

Also, there is the possibility that the Senate could consider items on the Executive Calendar. Therefore, additional votes could occur other than votes on the Volunteer Protection Act during today's session. In addition, the Appropriations Committee has completed action on the supplemental appropriations bill and it is the majority leader's expectation to begin consideration of that bill next week.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SANTORUM). Under the previous order, the leadership time is reserved.

VOLUNTEER PROTECTION ACT OF 1997

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of S. 543, which the clerk will report.

The bill clerk read as follows:

A bill (S. 543) to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on activities of volunteers.

The Senate proceeded to consideration of the bill.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, as the Presiding Officer knows, we have been at this for the better part of the week. I am pleased that the two sides have decided to proceed to the actual legislation and to consider its merits straightforwardly. I was also pleased to be notified this morning that during the summit—and I had not realized this—that occurred, Governors Branstad of Iowa, Whitman of New Jersey, and Wilson of California, issued a public statement in support of the Volunteer Protection Act while in Philadelphia, and called on the President to sign it. I am deeply grateful to these Governors, who have longstanding careers in public service, for stepping forward and calling on the passage of the Volunteer Protection Act.

Mr. President, I thought it would be useful, given the fact that we are now beginning the actual debate, to revisit the general parameters of the Volunteer Protection Act of 1997, which is a bill to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers.

First, Mr. President, I will frame the problem. Prior to 1980, there was virtually no issue for us to consider here. Millions upon millions of Americans over the history of our country have continued to step forward, help their neighbors, help in disasters, help that is grandiose, like fighting off the waters in a flood to something as simple as crossing the street with a spare meal or a good wish for a neighbor.

But something happened in 1980. Suddenly there were several very celebrated lawsuit cases that targeted the volunteer. It changed the whole nature of the environment for voluntarism in America. As we moved on through the 1980's we found a situation where, with increasing frequency, for a variety of reasons, it was the volunteer that was singled out by a plaintiff or a claimant. It could have been that the organization that the individual was contributing to did not have any resources, that the volunteer had accumulated some assets—a home, a checking account, whatever—and so the lawyers for the claimant went to the volunteer.

What has resulted from this? Well, as best we can tell, and you really cannot get the exact data, there have not been a rash of findings against the volunteers. They have been able to defend themselves, by and large. Many of the cases have been thrown out. But there is a chilling pall that has been cast over voluntarism across the land. In other words, we have put a question mark in the mind of an American volunteer. "Well, I want to help this family, I want to travel to North Dakota and help in that flood, but could I be putting my home or my business, or whatever we have accumulated in our family, at risk for having made this decision?" The answer, unfortunately, is yes. So the result is that voluntarism over the last several years since 1989 has been dropping—54 percent to 51 percent to 48 percent, the last number we have seen.

Second, we have had thousands of volunteers who served on boards of colleges and universities and charities and charitable organizations resign because they became fearful they would be the target of these lawsuits. So you not only have people with a question in their mind about coming forward, you actually have caused volunteers to step backward and resign. Some estimates are as many as 50,000 of these kinds of occurrences have taken place.

Now comes the summit, the volunteer summit, in the Presiding Officer's home State, Pennsylvania, in the city of Philadelphia, where the President and three former Presidents and First

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Ladies for six administrations have come forward, 100 mayors, 30 Governors, and called on America to step forward, to relight the fire, to reinvigorate volunteer activity in America. I believe that is a very wholesome thing, a very inspirational thing.

But if you study the remarks, Mr. President, this was more than a call for voluntarism. It is very interesting as you review it. This is fairly well targeted. Children are evoked over and over and were the centerpoint of this call to voluntarism. Furthermore, the call was for voluntarism to occur in difficult environments. We have heard language like the poisonous streets. We are talking about difficult, rough, abnormal environment that you are asking these volunteers to go to. So the specter of the problem is elevating. You are asking them to go into a more troubled center, a more volatile arena, where communication and differences and diversity are great and, therefore, the probability of accident or misstep is higher.

I have been arguing all week that the Congress should respond in a very forceful way by passing the Volunteer Protection Act of 1997 which will make it easier for a volunteer to respond, in the first place; and second, to a troubled place. The Volunteer Protection Act takes the volunteer and provides some shield against being a target of a lawsuit.

I told the story earlier in the week of a charity that ran a gym and a youngster broke a leg by dropping weights. A volunteer, a woman, was the receptionist—not in the gym. She is out answering the phone. She became the legal target. She had virtually nothing to do with the incident other than having been on the premises on the phone. The Volunteer Protection Act would have protected that woman because she had no relation to the incident. If she had been engaged in willful misconduct, if she had been reckless, wanton, if she had been involved in a hate crime or a sex crime or a civil rights crime, this legislation would not protect her, nor should it, and no one wants it to. It deals with simple acts of omission—an accident—that would protect the volunteer.

I want to point out, because in all the chaotic conditions that go on on Capitol Hill, I am not sure everybody has had a chance to read it and understand that no one is protected from willful misconduct or reckless behavior or drunk driving. Mr. President, even if the volunteer is protected, the organization itself, the institution, the nonprofit, is still liable. This is directed, principally for acts of omission, at the volunteer. There are some other protections in the bill for nonprofits that would help the charitable organization, but primarily this legislation would protect the volunteer from simple acts of omission or an accident of that kind.

The second thing it would do, Mr. President, is that it would create proportional responsibility. There is a legal term for that, but I think it is easier to understand when we say proportional responsibility. The case I just cited is a great example. This woman had no responsibility, so she would not be eligible to be a target. What it does here is, it says that you can't go after an individual, a volunteer, who has minimal responsibility or only a small proportion, or none, and cause them to be the target for compensation for the entire event, that there has to be proportional responsibility. That, too, would protect the volunteer.

Mr. President, we have concluded—those of us who have cosponsored the legislation—that the issue is one of national concern and scope. I go back to the summit. They were not there creating volunteers for Philadelphia; they were there calling on the whole Nation to step forward. Volunteer organizations, many of them, are national in scope. You don't have to spend much time thinking about it. They are organizations like the American Red Cross, the United Way, and Little League Baseball. The call for voluntarism is a national call, not a local community call. Many of the volunteers cross State jurisdictions in their activities. There is absolutely no way that many of these charitable organizations—600,000 of them—could in any way understand the myriad of laws that relate to this across the several States. Certainly, a volunteer would have no capacity to do this.

So this law, the Volunteer Protection Act, sets a national standard of protection. But if a State chose to create more protections, that would be their right. Or if the State took an affirmative act to opt out from under this in those cases where all the parties involved are citizens of that State, they could do that as well. So we believe this is an appropriate balance with regard to the interaction between the States and the Federal Government.

Mr. President, I have gone back to this summit time and time again in the discussion, but there is something I noted here this morning that I think is very interesting. There was an article about the summit, and it says:

> Perhaps no one put the challenge more simply or compellingly than former First Lady Nancy Reagan, known during her White House years for her antidrug slogan, "Just say no" . . .

For which, I might add, many of us are greatly indebted.

> Speaking for herself and her husband, ailing former President Ronald Reagan, she implored, "From this day forward, when someone asks you to help a child, just say yes."

Just say yes. How right she is. My plea to the Senate and to the House and to the President is, just make it easier to say yes. Let's try to remove this question mark that is holding volunteers back. Let's try to not call on them to step forward and then leave a system in place that trips them if they do. Let's remove this cloud that causes high-profile public policymakers to not agree to serve on a board. I venture to say, Mr. President, that every Member of Congress has had the question mark I am talking about in their minds at one time or another when they had to make a decision about whether to respond to an organization seeking their support.

Let's try to create an environment where volunteers don't resign from boards but are willing to serve on them. Let's try to create an environment where a volunteer immediately would rush to an accident scene and not put a question in their mind about whether they are putting their assets into a legal lottery. Let's do it in a way that is thoughtful—and I believe we have—and which does not protect somebody from ill doing, which I believe we have. The minority leader and I had a brief discussion with regard to this yesterday evening. I was enumerating the fact that this would not protect reckless conduct. We want to be conscious of a victim of an accident. But we have to do something here to free up America so that it can do what it has always done.

Mr. President, just before I conclude here, I want to reiterate that I believe American voluntarism is as much a part of our culture and life and a treasure of American life as our national monuments, our parks, and this very Capitol itself, because it is unique. There are very few places in the world where voluntarism takes on the components and proportions that it has in America. I was reading this morning that, last year alone, the equivalent value of American voluntarism, which was about 4½ hours a week, was around $200 billion-plus that had been given freely. But that is declining, and that trend should be reversed. We should nurture this American treasure and we should protect it, just as if it were one of the crown jewels of this Nation, like our Capitol.

Mr. President, I wanted to begin the debate by at least framing the reason for the law, a brief description of the law, and a call for the Congress to come forward and reinforce what took place in the historic days of the summit in Philadelphia, PA.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SANTORUM. Mr. President, I rise to congratulate the Presiding Officer, who just spoke, for his stick-to-itiveness in continuing to force this issue here in the U.S. Senate and, finally, accomplishing what we had hoped to accomplish and probably should have accomplished a couple of days ago, which is at least to move to this bill and begin the debate on whether we can, here in the U.S. Senate, do some positive things to the volunteer spirit of America, to see if we can remove some of the barriers that are in place right now that limit the amount of volunteer participation in our society.

I think the present Presiding Officer's remarks about the Philadelphia summit, the spirit created there, the momentum that was created there can only be enhanced. The big concern in Philadelphia, as I talked to so many people, was, "Isn't this wonderful? Don't you feel this great spirit? Don't you feel like we are focused on the right thing and we are pulling the country together, Republican and Democrat alike, liberal or conservative, focusing on a value that we all share?" It is an understanding that is sort of core as an American to understand the significance of participating as a volunteer in your community and the benefit that it gives not only the people you volunteer for but the benefit it gives you. But the big concern I heard over and over again, even from the most enthusiastic supporters of the summit, was, "Can we keep this going? Can this momentum continue? Will much happen after this week? How can we keep this spirit alive and keep this momentum that we have built, the commitments that were made? How can we continue to keep this ball rolling?"

I point right here to the U.S. Senate. This is the best way that I know of to keep the ball rolling, to keep the momentum going. If we follow up this week and maybe early next week with the passage of this legislation, with a strong message to the American public and to the prospective volunteers in America that not only do we think it is a good thing—and everybody says nice things about voluntarism and we talk about the benefits of it and about all of the wonderful things that it accomplishes for your community and for you as an individual—but we can lay down something solid, something tangible for them to say that things are different. It is not just that people are talking about it now, or not that it is an in-vogue thing, but there is a different set of ground rules now to participate and, to me, they are much more favorable. I don't have to look over my shoulder as a Little League coach as to whether I gave the catcher the right mask. I know that was one of the examples that was used over in the House. But I am doing this because I love my community, I love my neighbors, and I want to do something positive to contribute to their lives. I want to do so in a way that I feel that I can really express myself without having to be concerned about the whole troop of lawyers hanging in the wings for somebody who may have some accident in the process of volunteering.

So I think what we are doing here is taking that first step after the summit. This is the first step. People who have given all the great speeches about how important voluntarism is—if they don't follow through with doing something to move this agenda forward then I think we have every right to question the sincerity of the remarks. We have every right to question whether this was in fact a political stunt, and nothing more; that this was an attempt to revive individuals involved in their own public reception and nothing more than that; that it wasn't really real.

This is an opportunity to make the summit in Philadelphia more real in the eyes of the American public, to do something tangibly good for the volunteer in America, and thereby for the needy among us who have such a need and such a desire to deal with their fellow men and neighbors in solving the problems that confront them and their communities.

So I again congratulate the Senator from Georgia for his tremendous drive and enthusiasm and stick-to-itiveness to stand up here—for 3 days now—and fight this battle and refuse to relent.

I know some have said we are holding things hostage. I would suggest that this bill releases hostages all over America who are hostage to litigation fears—who now can go out and participate in their communities, and do the kind of things that will liberate so many other people who are in the need of volunteers, and the organizations with whom they work.

So I again congratulate the Senator from Georgia. I commend him for this.

It sounds like we have accomplished something tremendous. We have. All we have accomplished is that we can now talk about the bill, and we can now debate the bill. We are going to have, I am sure, amendments that will dramatically weaken this and that will take the teeth out of this legislation. Unfortunately, those will be offered on the floor. We have a tough battle ahead of us to be able to stand up to those kinds of weakening amendments, stay the course, and follow through with this responsibly.

I believe it is a very valid piece of legislation that preserves the right of those who are injured and at the same time liberates the volunteer in America to go out and pursue what they know in their hearts is the right thing to do which is to serve their fellow man to a greater good.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, thank you very much.

I certainly join my colleague, the Senator from Pennsylvania, in his expression of concern and hope for the outcome of the volunteer summit that has just occurred in Philadelphia. I, too, hope that we can keep the dynamics of that going.

There is no question, though, that one of the blights against voluntarism and giving freely of one's time to the benefit of human kind is what has transpired in this country over the last several decades when we have, in fact, denied the doctrine of charitable immunity; in other words, the ability to go out and give of your time and then by chance you make an accident—or by chance somewhere in the process someone might claim some question of injury—that, all of a sudden, you are liable, the courts take it up, the trial lawyers drag you through the courts, and they put a phenomenal blight on the giving concept that voluntarism is all about.

That is what S. 543 is about—to clearly prescribe what the limits are so that we don't put a legal damper on the kind of energies that are spilling forth from Philadelphia that Colin Powell is trying to once again fire up in this country. It is here. It is already here. It is part of the Judeo-Christian ethic that has made up the great growth of this country over the years.

I want to relate to you a comment that the director of March of Dimes Easter Seals told me right after the Berlin wall came down and Eastern Europe was freeing itself from the shackles of communism that some of it had been under for 70-plus years; most of it for about 45 years. I was with this gentleman one night at a banquet. We were visiting, and we were both seated at the head table.

I said, "What are you doing nowadays besides the work of Easter Seals and March of Dimes?"

He said, "You would be fascinated." He said, "I am spending a lot of time in Eastern Europe with the countries of Eastern Europe."

I said, "Doing what?"

He said, "Teaching them voluntarism."

I said, "Tell me more. What do you mean teaching voluntarism?"

You and I, Mr. President, would have considered that part of our family heritage, part of going to church, part of the extension of the person of the American citizen—voluntarism. What had happened in Eastern Europe and throughout the greater Soviet empire was that government had taken over. Government had become the operative of people. No longer could you give of yourself. It was government that told you what to do, how to do it, what to say, what to think, and all of those

kinds of things. Up until that time, I had forgotten, or I guess I had never really concentrated on the root of voluntarism, and what has transpired in our country over the years from the very early days of the barn raising in your State and mine—of neighbors sharing amongst themselves, because there was never enough work force to go around. So I would come over to your farm and help out, and you would come over to my farm and help out. And together, in a sense of community, we would help each other. That was before the days of lots of laws and lots of trial lawyers, and somebody looking around, and, saying "Gee. You have to be liable for that. It is your fault that something happened. And, therefore, we are going to take you to task on that."

Voluntarism has always been a phenomenal force in our country. And it did start from a Judeo-Christian ethic of helping one fellow person. That has been and remains the strength of our country.

I was so pleased when I heard Colin Powell through a series of interviews leading up to the summit in Philadelphia. In fact, I was pleased but a little disappointed one day when Katie Couric in a rather—at least my interpretation—cynical way said, "Well, but, but, but, surely you have to have Government doing some of these things, and, surely, you have to have a Government program. I mean, you have cut welfare, or Congress cut welfare." And, very consistently, Colin Powell said there is a role for Government. Yes. But there is a very clear role for people. Government doesn't nurture the child in the community. We can put food to the child. But we cannot nurture the soul. That is a personal relationship. That is a giving kind of relationship that is only put forth through the volunteer effort of the caring individual.

It was the sense of the Soviet States, if they were truly to become free states again and knowing that government could never provide everything to everybody, that they would have to reignite voluntarism in the voluntary spirit of nearly half a century past. So they were asking large contributive voluntary charitable groups from this country to come across, to extend to them how we did it, and to work with them to rekindle the human spirit in an effort of voluntarism.

That is what Philadelphia is trying to do—not to rekindle because it is clearly here in this country, and it always has been, but to extend it into other areas, urge people to give more of their time, to urge companies to provide time for their employees to go out and participate in the community in a free and giving way, and to knock down some of the barriers that exist in normal life that limit people's ability to contribute to give and to volunteer.

That is what S. 543 is all about—knocking down the percolation of legal barriers that have built up over the years of somebody trying to make somebody liable for something. We know that when you give of your time it is going to put you at risk. You are willing to give less. You back away, and say, "I can't be a part of contributive or voluntary effort if I might be sued." I mean that isn't in the spirit of Americanism. That isn't in the spirit of the raising of the barn in Kansas a century ago. Sure, the wall might have fallen down, and you had to pick it back up and somebody might have been hurt. There was always that risk. But it was always understood that nobody was liable under those circumstances—that you weren't trying to profit from it personally, that you weren't trying to gain from it. You were giving.

That is what this legislation is all about—to recreate at least an understanding that people can give of their time freely without a loss of the immunity they have always had with charitable voluntary efforts.

So I am truly complimentary of the Senator from Georgia for the tremendous effort that he has put behind this. It has come at a very important time. I must say to my colleagues across the aisle. You are filibustering. Get with it. Don't do that. There may be other reasons. But, if it is for this, it is a bad reason. If the trial lawyers of this country are wanting to play games with this, it is the wrong reason. They ought to go somewhere else instead of trying to go at the voluntary spirit of this country, the energy that built our country that made us what we are. It was not Government. It was people giving freely of themselves to other people.

That is what this legislation is about. That is what the nations of the former Soviet Union have had to actually seek from us. Yes. They want our institutions of government because they figure that ours is the best form of government. But they want our people institution. They know that they cannot have government alone, that it will not serve the needs of citizens of Poland, or Czechoslovakia, or one of those nations that was barricaded and imprisoned behind the Iron Curtain.

So they reached out to our great charitable voluntary contributive organizations immediately after the fall of the wall, and said, "Come. Teach us again how you make it work because what we see in America, what we see as the great energy and the spirit of your country, is the blend of government with the blend of the free citizen, both working together for the betterment of humanity and for the betterment of your country."

That is what S. 543 is all about. It isn't about trial lawyers taking people to court. There is plenty of that to go on in the private sector, and in the private economy, but not in the private giving should that be allowed. I am thankful that S. 543 speaks so clearly of that.

I again say to my colleagues on the other side: Get with it. Come on. Stop this filibuster. This is a time to stand together, as former Republican Presidents and former Democratic Presidents and a Democrat President stood together in Philadelphia and said this is Americanism at its best. We should not use Government to tear down voluntarism. We should not use laws to restrict it. Let us use our energies to multiply it for the betterment of our citizens and for mankind.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Thank you, Mr. President. I am particularly grateful for the statement of the Senator from Idaho, and for the measure of the Senator from Georgia.

When you try to define America, you can't define America by looking at people and from outward appearance. We are not all of one race or one ethnic origin. We represent every possible assemblage from around the world. We have come here. What we have, together, is not ethnicity nor religious background. It is not racial. What we have is a common commitment to community, a common commitment to what it is America is. It goes beyond politics. It goes beyond where we go to church. It goes beyond where the ancestors on our family tree came from. It simply goes to the heart of how we feel about each other.

No other nation on the face of the Earth has been so characterized by the idea of caring. Look at the great service organizations around the world, such as the Lions Club, which has a specific interest in protecting vision and making sure that people can see. The idea has been exported to the world from the United States of America. Look at the Rotary Club. Rotary clubs literally go around the globe. They have come from the United States of America where we look at the four-way test of rotary, which talks about the betterment of all concerned, which looks at the other side of the coin, which always asks about someone else.

Look at the Kiwanis Club, the slogan of which is "We Build." It has been exported to nation after nation. It has been embraced by cultures all around the globe, but it is something that started in the United States of America. It is something that is so universal and so important to the fabric, to the very tapestry that defines what this Nation is that it crosses party lines just like that.

You have four Presidents of the United States joining together, Republicans and Democrats, in the Presidents' summit on voluntarism, and you

have a person who in most societies would be considered to be an individual who knows how to deploy military resources and how to fight and how to hate and how to kill but an American whose heart really is in how to help, Gen. Colin Powell. He is heading up the entire focus again on voluntarism. It is something that is the character of this country. It is what makes us community. Frankly, it is richer than cultures that rely on Government and entitlement for all the things that are done. It is not universal in the world. In lots of places people think that charitable things are wrong, that it should be done by Government, so no one ever owes anyone else.

Well, in America we do not owe each other. We love each other. And the idea of voluntarism is a way that we can extend to each other and build the chords of community that bind us together. The poets from overseas have said it well: Never send to know for whom the bell tolls; it tolls for you.

That is why I have been involved in all kinds of charitable endeavors. I remember even when I was Governor of my home State, when a child was lost close to the State capital 20 or 30 miles away, I walked through the woods during the night with hundreds of other individuals to find the child. We were all kinds of people from all kinds of political persuasion, from all kinds of ckgrounds, yet there we were walking through the woods at night. I remember in the great floods that afflicted Missouri, I filled sandbags next to people I did not know but people whom I loved because I cared for the communities, and I knew that if there were ever a flood at my place, they would be there with a shovel and their children with them, as mine were with me, filling sandbags.

That is what America is about. We would not want to do anything to destroy the capacity of Americans to help each other, to love one another, to participate in community activities, charitable activities where we reach out to one another. How many times did dads, when I was a boy, haul me to the ball game? My father traveled a lot. My father was an itinerant, in some respects, minister at some times during his life and then traveled extensively when he was involved in education, raising money for the college. But you know, there was always some dad from the area who took me to the game.

I will never forget Charles Wilcox. One time after a dusty, hot baseball practice, he took the whole team to the root beer stand, and he walked up to the window and said the most generous thing I have ever heard in my entire life. It almost knocked me over as a boy. He said to the fellow inside the root beer stand, "This is my team. Fill em up." It had never happened to me before and perhaps has not happened to me since. I think soda pop is pretty commonplace these days, but back in the 1950's, when someone walked up to the root beer stand and said, "Fill em up," it was a big thing.

I do not want the Charlie Wilcoxes of this world not to be able to do that anymore. I do not want them so afraid that when they coach the Little League team, they are going to have to put on their family the risk of financial ruin. We have seen the cases, the shear lunacy of cases where the coach is sued because the youngster was moved from shortstop to left field and got hurt when a fly ball hit him in left field. His mom had said he was a born shortstop. Who is going to be the coach if you can get sued when you move someone to left field?

We have seen the ridiculous cases where the youngster insists on sliding in headfirst and then injures himself and the coach is sued because the youngster slides headfirst instead of feet first, in spite of the fact that the youngster has seen all the big leaguers doing it time after time after time. But if that coach is going to lose his home, if his children cannot go to college because he is generous enough to care for someone else, we will certainly have cheated a lot of young people out of a lot of helping hands.

When I was at the summit this last weekend in Philadelphia, each of these Presidents called upon me personally. No, they did not come up to talk to me, but they spoke to me, they spoke to my heart. They said America needs again to have a revival of individuals who are willing to care for each other. I thought to myself, we need to make sure as Members of the Congress that we do what is necessary to make that possible. I think of the Scout volunteers on the west coast who allowed the boys to play touch football. When I was a Scout, we would never settle for touch football, but these must have been very good leaders, interested in the safety of the youngsters. But one got injured and he ended up with a $7 million judgment against two of the volunteers. The appellate courts reduced it to $4 million. I cannot imagine that was much of a consolation to those Scout volunteers.

Most people do not want to have to choose between helping the community and protecting their family. No one really will ever say I will help someone else if I have to sacrifice my family, because we have a very strong commitment to our families in America. It is a cornerstone of what we are. But a similar cornerstone of this house we call the United States of America is helping each other, and we should not put these cornerstones at odds. We should not say to people, in order to help someone else, you have to put your family at risk. That is what we have done with a tort system that has awarded judgments like $4 million against Scout leaders, that has awarded judgments against a Little League coach who moved someone from shortstop to left field.

Let us get serious. The Presidents, past and present, know what America is about. It is in the hearts of Americans across this country. We want to make it possible for people again to extend themselves in a voluntary way without putting their families at risk. That is the long and the short of what we want to do.

I think it is entirely inappropriate for some in this Chamber to stand against us, for those whose President has called us to a summit on voluntarism to say no, we are not going to allow any discussion of that in the Senate, we are not even going to proceed to the bill; we do not want you to have a chance to vote on it. That is what this filibuster by the Democratic Members of this body is achieving right now. It is keeping us from voting on this bill. This is not the bill itself we are talking about. We are talking about the motion to proceed. This is technical gobbledygook of the Senate. But in order to consider a bill, you have to succeed in passing a motion to proceed to the bill, and we are being filibustered on the motion. It is time for all Americans to again enlist in this great enterprise of community which we call America and help each other, and it is time for the Senate, Members of the Congress, to build a framework where we do not ask people to choose between protecting their family and helping other people. We have to say we will make sure your family is protected if you are kind enough and loving enough and caring enough to extend a helping hand, a hand of care, compassion, and love to those in your community.

I have been told we are on the bill now. I am glad to know that we are on the bill. Yesterday we were on a filibuster to the motion to proceed, and I appreciate the correction. I apologize to Members of this body on the other side of the aisle. I would not impair or impugn their motive here. I am glad to be on the bill. I think with that in mind we ought to make sure we all vote in favor of this. This is an outstanding piece of legislation which will stop the irrationality of asking people to choose between protecting their family and helping their neighbor. The history of this country is that we have not only protected our family; we have enriched our families by helping our neighbors because we have been taught one of the most important values of life, that is, that we are not alone, that we live together in community.

I thank the Chair.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I commend both the Senator from Idaho

and the Senator from Missouri for their statements. Senator ASHCROFT is a cosponsor, as is Senator CRAIG, and they both have devoted extensive activity and time and energy to the promotion of this legislation.

Mr. President, I am going to talk a little bit more about the bill and then move to a quorum call. It is my understanding there are several Senators who wish to speak as if they were in morning business. It would be appropriate with us. We have now had a full hour framing S. 543, but I want to just go back to the summit a minute and quote three prominent figures in American life. As First Lady Hillary Rodham Clinton put it in her column last week in the Washington Times:

> Whether through tutoring children, picking up litter on a highway, or providing free legal counsel to a needy client, we all have a chance to help address problems in our communities and enjoy the satisfaction that comes from being good neighbors. What we may not realize is that in the process we are also strengthening our democracy. Democracy depends on citizenship and citizenship depends on people voluntarily contributing their time and performing services that their country needs.

She is absolutely correct. I have always believed, Mr. President, the genesis of the American spirit is that we are a free people, and if you really want to know the roots of voluntarism, because it is uniquely American, it is because we have been free and we have unleashed spirits and thinking and activity which the world has never seen nor compared. What we are talking about here in this legislation is there has evolved in the last decade and a half a constriction, a choke, on that kind of freedom. We have chilled it. What we are seeing is the same kind of thing that happens anytime a government or practice becomes engaged in constriction of freedom and the natural activity of human beings.

We have, unwittingly I believe, had evolve a situation where the volunteer has become a target, and they have become fearful of it, which is a step back from freedom. Fear is one of the first things that happens when people, for whatever reason, begin to lose their freedom. They become fearful and their behavior changes. The explosion of voluntarism in America was born in freedom, and the constriction of it is occurring because they do not feel as free to do it. They fear harm. They fear retribution. They fear consequences. They fear for their families. So they alter their activity, and the Nation and the neighbor suffer. This legislation is designed to remove the fear and come back to the genesis of freedom to make choices, freedom to help the person cross the street or the person suffering from the flood that was described yesterday.

I do not believe our policymakers have really quite understood how serious this is. Everybody is busy with all their activities and their agenda, whether you are the President of the United States or you are running a store or you are the mayor of a local town. No one realized the field changed in the 1980's; the volunteer was not as free to step forward. It happened in the 1980's. So, this legislation is necessary to try to recreate the environment that has so enriched our Nation and our country.

Mr. President, I will take a minute. I have mentioned several times I am the former Director of the U.S. Peace Corps, which is one of America's preeminent institutions of voluntarism. There have been about 150,000, since 1961, who have gone all over the world, and their voluntarism does not stop there. In fact, the original charter of the Peace Corps has a third mission: Go where you are asked to go, be of assistance to the people there—and bring the knowledge of the world back home. So we continue to ask these volunteers to serve when they return, and thousands of them do. Many of their activities are addressed at the very core of the summit call—children.

As you might expect in an institution like that, there is a lot of discussion about voluntarism. There would be discussion, from time to time, about: Should they receive greater compensation? Would that create more volunteers? And you always came up with the same answer, that what we wanted was the volunteer who willingly stepped forward and wanted to do it and there was not another incentive. They were not doing it for a check. They were doing it to serve. Because, when you alter that chemistry, the whole interaction between the volunteer and the beneficiary changes, and you create a completely different kind of interaction.

I mentioned the story yesterday of the fellow who was helping train in the Civil Air Patrol. He even had to spend his own money to do it. But as he got out of the car he turned to me and he said, "But the payback is when I look in their faces, when I see their pride and sense of accomplishment." That is a volunteer.

This issue of legal threat changes the chemistry of the volunteer. It changes the component of the interaction between the volunteer and beneficiary and alters their behavior, sometimes to the point of causing it to cease. This is a very important piece of legislation, and it is about America. It is not very complicated—12 pages. But it is right near and sitting up beside the heart and soul of who we are as a people. We need to get this done.

Mr. President, I yield the floor. I see we have been joined by the distinguished Senator from—Alaska.

The PRESIDING OFFICER. Who seeks time?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I appreciate my colleague from Georgia recognizing the North Pole.

First, let me say a few words about the effort of my good friend from Georgia in bringing to the attention of this body, as well as to the Nation, the importance of the Volunteer Protection Act. The issue before us is vital; it is a matter defending the noble act of personal sacrifice and contribution for the benefit and good of others. So I commend the Senator for his diligence, the time he spent on the floor, and the effort that has been made. And I look forward to supporting the effort for the Volunteer Protection Act which has been introduced by Senator COVERDELL of Georgia.

Let me just ask my colleagues to bear with me for a moment. As we know, this past week President Clinton and other prominent Americans appeared in Philadelphia. Philadelphia is the city where our American heritage is rooted. What better place to come to for the recognition of voluntarism and what it means to this country, because those who founded our Constitution—our early efforts to formulate the principles of this country—were all volunteers. They were volunteers coming forward and contributing their knowledge, their expertise, their willingness to formulate a nation. So it was certainly appropriate that a summit on voluntarism was held in the city of Philadelphia during the past week. But what did this summit really accomplish?

I am told there were balloons, streamers, speeches, and a lot of good photo ops. But, unfortunately, we have to look at the bottom line and ask what was accomplished? How much was accomplished? It brought the issue to the American people. But, specifically, what did we get out of it? Because I think the summit ignored the fact that, in order for the spirit of voluntarism to flourish, you must, first of all, have real reform in our American judicial system.

What the Senate is basically doing today, and what we have been trying to do for the past 4 days—for the past 4 days—is not put on a highly publicized summit about voluntarism. We are trying to reform a justice system that deters voluntarism.

I am pleased, after several days of procedural delay, we have finally begun debate on this important legislation.

Mr. President, recent congressional findings reveal that our legal liability system deters voluntarism. In fact, according to the testimony given before a congressional committee last year, one in six volunteers withholds his or her services due to the fear of exposure to a lawsuit. That is the system that we have unfortunately devised. If that figure is applied to the number of volunteers in nonprofit organizations alone,

we might see as many as 100,000 have had to decline to serve because of the fear of being sued.

America's litigation explosion forces nonprofit organizations to spend an ever-increasing amount of time and resources preparing for and avoiding lawsuits. The American Society of Association Executives testified before Congress last year that the association's liability insurance premiums increased an average of 155 percent; one in eight nonprofit organizations reported an increase of insurance premiums of 300 percent alone. This has put some of our most revered nonprofit organizations at risk.

For example, Dr. Creighton Hale of Little League Baseball reports that the liability rate for a league increased from $75 to $795, in the last 5 years. Because most leagues cannot afford such an expense, many operate without insurance. Some have, unfortunately, been disbanded altogether. The bill before us protects volunteers from liability unless they cause harm through reckless or criminal conduct.

This common sense approach legislation would put an end to tragic liability cases such a 1990 negligence case in which a Chicago jury awarded $12 million to a boy who was injured in a car crash. Who was the negligent party? According to the jury, it was the estate of the volunteer—the estate of the volunteer, who gave his life attempting to save that boy.

Here are just a few other examples of recent outrageous litigation which threatens voluntarism.

In Oregon, a boy on a Boy Scout outing suffered a serious injury while playing tag football. The court dismissed the original lawsuit filed against the Boy Scouts, due to an insufficient nexus between the Boy Scouts and the youth's injury. The injured boy then decided to sue the volunteers who supervised the game. In one of the largest monetary verdicts in Oregon history, the jury found the two volunteers liable for $7 million.

When a 10-year-old boy in New Jersey lost a fly ball in the Sun during Little League practice, the ball dropped and hit the boy in the eye. The boy's coaches were sued for negligence.

In Oklahoma City, a member of an amateur softball league was so angered when he was ejected from a game that he drove away in a fit of rage and crashed his car. So what does the ejected player do? He files a suit against the umpire.

According to William J. Cople, a Washington lawyer who is pro bono counsel for the Boy Scouts of America, "Volunteers have simply been swept away in the hysteria of litigation. * * * Suits are brought for almost anything, under any circumstances." What good comes from these suits? Well, about all you can say is that they keep a lot lawyers in business.

Mr. President, the bill we are debating will help put an end to such unwarranted litigation. This bill creates a system in which plaintiffs sue only for good reason and sue only those who are responsible for the damage. Such common-sense reforms will create an atmosphere which will nurture voluntarism. This legislation will foster the spirit of voluntarism, not just speak about it at a photo op.

For centuries, volunteers in America have fed our hungry, sheltered our homeless, instilled values in our youth. Volunteers are vital, as we know, to our survival as a moral nation. It is time we gave volunteers something in return, and that something is this legislation that will protect them from frivolous and outrageous legal attacks that are the result of a judicial system in desperate need of reform.

Finally, there is something else I believe we should do to encourage the volunteer spirit in America. This is to allow volunteers to get a more realistic tax deduction for their travel costs associated with charitable activities. Later today, I, along with Senator COCHRAN, will be introducing the Charitable Equity Mileage Act of 1997. This bill will increase the standard mileage rate of deduction for charitable use of an automobile from 12 cents a mile to 18 cents a mile. I think this bill should be unanimously supported by my colleagues on both sides of the aisle.

Further, many of our citizens who volunteer for charitable activities do incur expenses for which they are not reimbursed. For example, when an individual uses his or her automobile to deliver a meal to a home-bound elderly individual or to transport children to Scouting activities, the volunteer usually pays the transportation costs out of his or her own pocket with no expectations of reimbursement. I believe the costs associated with charitable transportation services ought to be deductible at a rate which fairly represents the individual's actual costs. This is especially important for volunteers living in rural communities who have to travel long distances to provide community services.

Congress, in 1984, set the standard mileage exemption deduction rate of 12 cents per mile for individuals who use their automobiles in connection with charitable activities. At the time the standard mileage rate for business use of an automobile was 20.5 cents per mile. In the intervening 13 years, the business mileage rate has increased to 30.5 cents per mile, but the charitable rate has remained unchanged at 12 cents per mile because the Treasury Department does not have the authority to adjust the rate. By raising the charitable rate to 18 cents a mile, my legislation, I think, restores the relationship that existed in 1984 between the charitable mileage rate and the business mileage rate. In addition, the legislation authorizes the Secretary of Treasury to increase the charitable mileage rate in the same manner as is currently allowed for business mileage expenses.

All of us agree that, with the changing role of the Federal Government, we need to do more to encourage voluntarism in our country. The Volunteer Protection Act will do that, and so will the legislation that I am introducing. Volunteers who provide transport services should be allowed to deduct such costs at a rate which fairly reflects their true out-of-pocket costs, and this is precisely what the bill does.

I urge my colleagues to join with me in sponsoring this important legislation.

Mr. President, I have a letter of support for my bill from the American Legion. I ask unanimous consent that this letter be printed in the RECORD.

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

THE AMERICAN LEGION,
Washington, DC, April 24, 1997.

Hon. FRANK MURKOWSKI,
Member, U.S. Senate,
Washington, DC.

DEAR SENATOR MURKOWSKI: The American Legion fully supports the "Charitable Travel Equity Act of 1997," to amend the Internal Revenue Code of 1986 to increase the standard mileage rate deduction for charitable use of passenger automobiles.

Not only does The American Legion applaud the increase in the mileage rate deduction, but more importantly this measure fixes the problem that has not allowed for incremental increases without an act of Congress action. The standard mileage rate deduction for business use of passenger automobiles has increased significantly while no adjustments were made in the charitable use rate. Granting the Secretary the authority to make prescribed adjustments will provide fairness and promote additional volunteerism.

Thank you for your continuous leadership on behalf of America's veterans and their dependents.

Sincerely,

STEVE ROBERTSON,
Director,
National Legislative Commission.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Texas.

Mr. GRAMM. Mr. President, I ask unanimous consent to be recognized as in morning business.

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

BUDGET NEGOTIATIONS

Mr. GRAMM. Mr. President, we have been in the midst of a filibuster where our President and many of our notable leaders around the country have gone to Philadelphia and called for an expansion in voluntarism, something that we all believe in, something that America was built on.

We have a bill on the floor of the Senate now to try to protect volunteers from frivolous lawsuits which

threaten the whole process, and we are in the midst, basically, of a stall and a filibuster by our Democratic colleagues in opposition to this bill.

In this lull, I wanted to take the opportunity to come to the floor of the Senate and, for the first time, publicly make a comment on the emerging budget agreement.

Mr. President, I believe that the budget agreement that is now emerging is a good political deal, but it is a bad budget. It is a good political deal because, in a sense, it gives both parties in the negotiation what they want.

The President in this budget negotiation gets what he wants. He gets an ironclad guarantee that the era of big Government is alive and well and guaranteed in Washington, DC. He gets new entitlement programs. He gets the reestablishment of entitlements that we eliminated in welfare reform. He gets more social spending than President Carter and nearly twice as much as in the 1960's under Lyndon Johnson. The President, in this emerging budget agreement, gets the one thing that he cares most about, and that is a guarantee that Government is going to continue to grow and that its presence in the American economy and American society is going to continue to be dominant.

In a sense, Republican Members of Congress get what they want. We get to claim a tax cut. We get to claim that we have delivered on a campaign promise we made to let people keep more of what they earn. There are still negotiations underway as to how big that tax cut is going to be. But the problem is that by politically manipulating the Consumer Price Index, something I will talk more about in a moment, what is happening is that while on one hand we are going to be guaranteeing a cut in taxes in the short run, by manipulating the measure of inflation upon which the Tax Code is built, we are guaranteeing increases in tax rates that will, over time, offset the cut in taxes that we will claim from this budget agreement as a victory.

The President gets what he wants: more Government and a lot of it. Republicans get what they want, and that is a claim of a short-term tax cut. But let me say the American people do not get what they want. The American people get no fiscal restraint. In the end, the American people will not get a balanced budget. In the end, the American people are not going to get a stronger economy from this budget. In the end, the American people are not going to get any lasting tax relief from this budget.

This budget is a great deal for Washington, but it is a bad deal for America. This is the kind of budget that comes about when the two great political parties stop debating ideas and start conspiring against the public, conspiring to promote their interest but not working either together or in contention to promote the public interest.

Let me say a little bit about the Consumer Price Index and about politicizing it.

America is a country where statistics matter. Facts are persistent things. Facts have an impact on what happens in our country, and the measure of inflation affects everything from how much you get in Social Security benefits to how much veterans receive in retirement benefits to how much we pay in taxes to how contracts are negotiated. We have set up an agency which, historically, has acted independently, the Bureau of Labor Statistics, to try to come up with a measure of what inflation is, what consumer prices are.

Obviously, no statistic is perfect. In fact, we have had a debate in economics for 40 years about whether the Consumer Price Index is a good measure of the cost of living. To listen to politicians talk about it in the last 4 or 5 years, there is this unanimous opinion among professional economists that the Consumer Price Index overstates inflation. Let me say that there are only two economists in the Congress, DICK ARMEY and myself, and we both oppose the change in the Consumer Price Index. In fact, economists are split on this subject.

No less an authority than Milton Friedman, Nobel Prize winning economist, perhaps the best known economist on the planet and probably the most able, has concluded that the CPI may well overstate the rise in private prices, but it almost certainly understates the cost of living, which is the measure that we are using it for.

And why does the CPI understate the cost of living? Because it leaves out the No. 1 cost of living for the average working family in America. In fact, it leaves out an involuntary expenditure that is bigger than health care, housing, nutrition, and transportation combined. The Consumer Price Index does not include the cost of Government, does not include taxes and, therefore, through that exclusion, Milton Friedman argues it understates the true cost of living, even though it might understate the rise in the cost of goods and services in the private sector. But whether CPI overstates or understates the Consumer Price Index, we should not have political decisions being made about economic statistics, and I would have to say, obviously, it was inevitable in the Clinton administration that the process of setting statistics was going to become politicized.

We are looking in this negotiation underway at mandating, through an assumption that it will happen in the future, a change in the Consumer Price Index that will raise taxes over a decade by over $100 billion, and it will raise taxes by changing the inflation rate and, therefore, pushing working families more quickly into higher tax brackets and lowering the value of the personal exemption and the dependent exemption, which are critical factors in calculating the taxes of working families.

So the bottom line is, by deciding on a political basis where Members of Congress and the President have decided that we are going to manipulate the Consumer Price Index, we are going through that process to cut Social Security and other benefits over a decade by about $180 billion, and we are going to raise taxes by about $120 billion.

What are we going to do with that money? We are going to spend every penny of it. So Social Security is 15 years away from insolvency, we are going to manipulate the Consumer Price Index and reduce benefits, but we are not going to put those benefits back in to saving the Social Security trust fund.

We have the highest tax rates in American history. No American has ever lived a day where the aggregate tax rate, where you are looking at taxes at all levels of Government, was as high as it is today. Never; not a day. But what we are doing by manipulating our statistics is we are raising taxes on working families, and we are all doing it sort of quasi under the table.

I will offer, when we debate the budget, an amendment which I think is a pretty important amendment. In fact, I am going to call it the CPI Social Security and Tax Equity Improvement Act. What this amendment is going to say very simply is this: That rather than having a bunch of politicians manipulate the Consumer Price Index to try to cut Social Security benefits and raise taxes so we can spend the money, we ought to go ahead, since this has now reached such a political fever pitch to seize this money and squander it will not go away, we should leave it to the experts but dedicate the savings to specific purposes.

So what I am going to propose is two things. In the budget, I am going to say whatever we do to change the Consumer Price Index, that every penny that comes from raising taxes on working families ought to go back to those working families to raise the dependent exemption and the standard deduction first back to the level that existed in 1950 in real dollars. Today, the standard deduction is about $2,550. In current-day inflation adjusted dollars, in 1950, it was $3,800.

So the first thing we would do with these savings that come with increases in taxes from changing the CPI, if Congress does it in the budget, is we would take that money rather than letting Congress spend it, the part that comes from raising taxes we use first to raise the standard deduction up to $3,800 a year, and then we would use it to reduce marginal tax rates. And those parts of savings that come from cutting Social Security benefits, we would

put back in the Social Security trust funds, but we would set up real trust funds with it. It would be outside the Treasury Department. It would not count as the internal debt of the Federal Government, because it is the debt of the Federal Government to Social Security beneficiaries. When we pay interest on that debt, it would count as an outlay of the Federal Government. Today, it does not even count as an outlay of the Federal Government when Social Security earns interest. Finally, we would set up a procedure where we could look at having a real trust fund, including real investments.

I also will introduce a bill that will establish an independent commission made up of all living American Nobel Prize winners in economics and have them, in conjunction with the Bureau of Labor Statistics, review for 6 months the Consumer Price Index and make a recommendation to the Commissioner of Labor Statistics. If she decides, based on their recommendations, which will be made public, to change the Consumer Price Index, then under the bill I will introduce, the part of savings that come from raising taxes will go back to families to raise the standard deduction and cut marginal tax rates. The part of savings that come from the Social Security trust fund will go back into it, but into a real trust fund that will be set up outside the Treasury, and it would be capable for the first time in American history of making real investments.

I am not here to criticize our leader or to criticize Senator DOMENICI for their work on these negotiations. We all have to do the best job we can do. We all have to try to achieve what we believe in, and I am sure that if the negotiations are completed along the lines that they have negotiated them, that they will believe they have gotten the best agreement they can get. But I cannot and do not support an agreement where the President gets what he wants, a guarantee of big Government in perpetuity, new entitlement spending, social spending the likes of which we have not seen since the 1960's; Congress gets what it wants, the ability to claim a tax cut, even though by manipulating the measure of inflation, we raise taxes and, over time, offset that tax cut.

The problem is the President gets what he wants politically, Congress gets what Congress wants politically, but the American people do not get what they want politically. They want a real budget; they want fiscal restraint. Nobody can claim that this budget exercises fiscal restraint. Nobody—Democrat, Republican—no one can look at this budget and say that a tough decision has been made, that spending has been controlled. There is no fiscal restraint in this budget.

While we will be able to claim a short-term tax cut, the reality is there is no permanent tax cut when you factor in the change in consumer prices in this budget. We do not guarantee in this budget a balanced budget. In fact, this budget begins by assuming a balanced budget, for all practical purposes. By changing the underlying assumptions in this budget, if we simply went with a spending level set out in discretionary spending in current law, which is $4 billion for next year below what we are spending now—that is the law of the land—and we did nothing else under the assumptions of this budget, for all practical purposes, we would have a balanced budget.

So a balanced budget is not achieved by this budget; it is assumed by this budget. In the end, this budget gives both political parties what they need politically, but it does not give the American people what they need and, as a result, I am not for it. This is a bad deal in the making. It is a deal that is a political deal with political ends. It is a deal that comes about when we move away from the traditional function of our great political parties, which is to contest, which is to present competing ideas and then ultimately allow the superior ideas to prevail. This budget really represents what I am sure will be portrayed in the media as great bipartisanship, but in reality it is the two parties working together to claim political victories for each party without achieving the objective that the American people seek.

So I do not doubt that there will be great support for this budget. When you claim you are balancing the budget, when you can demonstrate that we are creating new entitlements and the largest social spending that we have ever seen since the 1960's, you are going to have a lot of Democrats who are going to support this budget. When you can claim, no matter how temporary it may be—with the procedures in this budget, we will over time raise income taxes—but when you can claim that we are cutting taxes, even for a short period of time, there are going to be some Republicans who find this agreement to their liking.

Finally, there is pressure on us all, and there should be, to find a compromise to balance the budget, to work with the President. But I do not see an effort here to work with the President to solve the problem. I do not see an effort here to work with the President to gain control of spending. Both parties campaigned in the last election on controlling spending. There is no effort here to control spending. In fact, there is a conspiracy here, a bipartisan one, to increase spending. I do not see an effort here to guarantee and lock in a balanced budget. I see an effort here to assume a balanced budget, so I see bipartisanship all right, but it is bipartisanship basically to achieve a political goal for each political party. I do not see bipartisanship to achieve a goal for America.

Let me touch on two final points and then I will yield the floor.

We are going to bring up next week a supplemental appropriations bill. That supplemental appropriations bill, for all practical purposes, raises the deficit $8.4 billion, though there are some offsets in the defense area.

I remember when we had 43 Members of the Senate who were Republicans, and the Democrats tried to bring up a $17 billion so-called economic stimulus package, and we blocked it. We now have 55 Republicans, and yet next week we are going to bring up an $8.4 billion spending bill where virtually every penny of it is going to raise the deficit. We are already spending $22 billion above what we said in our 1996 budget we would be spending on discretionary spending this year.

I intend to offer an amendment next week. That amendment is going to do two things. No. 1, it is going to say every penny we spend this year on emergencies—and I am in favor of disaster relief—but I think it is very instructive that if you look at the number of States we have had floods in, and then you look at the fact that we are giving disaster assistance to 23 States, this disaster is taking on manmade implications made in Washington, and the disaster is not just flooding houses in North and South Dakota and Minnesota, but it is increasingly runaway Government spending at the expense of the taxpayer and at the expense of the deficit.

What I will propose is the amount of money we are going to spend for an emergency this year, spend it, but do an across-the-board cut in other programs to pay for it. Then whatever we spend next year, make it count as part of the budget for next year; in other words, for next year that it be offset against other programs that we might have spent it on.

I know we will have colleagues here who will jump up and say, well, we have people who have been flooded out of their homes. And we do. And we should help them. But shouldn't we pay for it?

What family would not like to say, when Johnny falls down the steps and breaks his arm, "Well, look. We don't have any money. We have planned to go on vacation this year" or "we were going to buy a new refrigerator this year. So we are just going to have to assume that Johnny's arm gets fixed, and it would be nice if somebody would come in from Heaven and just give us the money." But that does not happen in American families. What they have to do is they have to go back and they have to not buy that new refrigerator or they have to not go on vacation.

What I am saying is, help people who have been the victims of natural disaster, but do not create a financial disaster by simply adding it to the deficit. Let us provide disaster assistance, but

let us cut other programs that now, with these disasters, we cannot afford.

Let me also note that this is not unexpected. We have had a disaster every year that President Clinton has been in office and we have not had the money to pay for it because we did not write it into our budget. It has averaged about $7 billion a year. There is nothing unexpected. Every year in America we have floods or hurricanes or tornadoes or earthquakes. We know it is going to happen. When we do not write the money in our budget to pay for it, all we are doing is saying, let us borrow the money and just keep spending. My answer is, let us pay for it by cutting other Government programs.

I do not believe, Mr. President, that amendment is going to be adopted. There is no constituency that I can determine in the Congress for controlling spending. But we are going to vote on it. We are going to know where people stand on this issue.

The final point I want to mention is on the so-called CR. We all know that when the Government shut down, people were dislocated. I would have to say that I think the President did an exceptional job politically of exploiting it. I admire him for it. I think we did an inept job of explaining that in fact the President vetoed the bill and shut the Government down.

But in an unusual effort to have good Government, what Republicans are saying on this appropriations bill we are going to vote on next week is, look, before we get into any disputes with the President, let us just agree that if at any point during the year we cannot agree on how much money to spend to keep the Government open, that we will keep it open temporarily at 98 percent of the spending we spent last year, which, by the way, is substantially above the budget that we adopted last year.

Our Democratic colleagues are saying, "Well, no, we can't do that. We can't set out that if we can't reach an agreement we will simply spend 98 percent of last year's level." They are saying that somehow we are trying to impose priorities on the President. What we are trying to do is to guarantee that we do not have a shutdown in Government. I think our proposal is eminently reasonable. And I intend to support it. I do not intend to vote for this supplemental appropriations bill if we do not have this provision to prevent a fiscal disaster written into it.

I think it is time for us to understand that we have an obligation, No. 1, to pay for these bills, and, No. 2, to try to set out some way of gaining control of runaway Federal spending. The problem in Washington is still spending. We are still not controlling it. That is what this debate is about.

I yield the floor.

Mr. LEAHY addressed the Chair.

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

Mr. LEAHY. Mr. President, as some of my colleagues know, I was considering introducing, as a substitute to the bill by the distinguished Senator from Georgia and others, the bill of the distinguished gentleman from Illinois, Mr. PORTER, as introduced in the other body. I am withholding that because staff from my office and staff of the distinguished Senator from Georgia and others have been talking about some additional amendments to the pending legislation that, if acceptable to all sides, would improve a number of the concerns that the Senator from Vermont has with the pending legislation, concerns I will not go into again here because the Senator from Vermont has discussed them on a number of occasions on the floor.

While I was waiting to make that announcement, though, I could not but hear some comments of the Senator from Texas regarding the budget.

Frankly, I will say to my friend from Texas or anybody else, if they are not happy with the recommendations being made by the White House or Democratic Senators or anything else, the Republican Party has a majority of the Members in the House of Representatives, the Republican Party has a majority of the Members in the Senate of the United States. All they have to do, if they have a budget they prefer to anything the President has, is bring it forward and pass it. They have enough votes to pass it. And the President cannot even veto it; it is a budget resolution. So it is a little bit disingenuous to suggest that somehow the President or anybody else is winning on this.

The Republican Party has the majority of votes in the House and the Senate. A budget resolution cannot be vetoed. All they have to do is pass it. In fact, the law requires that they pass it by April 15—I mean, April 15 of this year, not next year. The law also requires that you and I, Mr. President, file our income taxes by April 15. If we do not, we get a knock on the door from the IRS. Apparently nobody is going to knock on the door when the Congress did not pass a budget resolution by April 15.

But I suggest, before anybody goes tearing too hard after the President or anybody else that may have been negotiating a budget, with all due respect to my friends on the other side of the aisle, if they do not like it, just pass their own. They could have followed the law and passed one by April 15. They did not. I will not chastise them for not obeying the law, even though they want the rest of us to. But just pass it, if you like. You can do it. I will also say, as far as passing an automatic continuing resolution, whoa Nellie, that has nothing to do with cutting budgets. I am perfectly happy to vote for budget cuts. I voted for more successful budget cuts than an awful lot of people in this body, I mean those that actually passed in the Appropriations Committee and elsewhere.

But this idea of some kind of an automatic continuing resolution is just a law that says we do not have to do our work. Now, by the end of September we have to pass 13 appropriations bills. If we all just go off and take another vacation, do not pass them, then this law proposed by the Senator from Texas and others would kick in, and nobody would even know if we were out of town.

I prefer we do our work. Maybe some of the same people, some of the same people who were unable to come up with a budget by April 15, who refused to follow the law to come up with a budget by April 15, want this new wrinkle, this unprecedented wrinkle of basically passing appropriations bills in advance, because if you pass this law, this continuing resolution, we can just go home. Maybe the American people would like that, but I do not think we are meeting our responsibilities. So I think we should stop the gimmicks in the appropriations bills. And this is just one more. It is not an issue of whether you want to cut budgets or not. It is an issue of whether we do our work.

We have had several vacations this year and we confirmed two Federal judges and we are now in the fifth month. There are 100 vacancies. We have had several vacations this year and we are now in May, even though the budget resolution is supposed to be here April 15. I think before we pass any more laws that allow us to escape the responsibility for carrying out our actions in this body, we ought to do what we are supposed to do.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 678 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

VOLUNTEER PROTECTION ACT OF 1997

The Senate continued with the consideration of the bill.

Mr. LEAHY. Mr. President, going back to the matter at hand, all of us support the concept of volunteers working to help. In fact, this country could not make it without volunteers. I think of those volunteers in the recent disastrous floods in the Dakotas who worked 16- and 20-hour days to pack sandbags, sometimes to protect homes and property and businesses of people they did not know and probably never would know. They just showed up, volunteered, and did it.

I think what happens, sometimes we will get hit with a vicious storm in my part of the world, power lines will come down, electricity will be out, and people gather to volunteer and help. I

think of some people I have seen in times when I have had the opportunity to volunteer in what we call our Cleanup Day. Cleanup Day in Vermont was begun by a dear friend and former Governor of Vermont, Dean Davis. This is where thousands of Vermonters all over the State go out at this time of year—the snows are gone, we hope—and we will pick up trash all over the State, beautify our roads, our streams.

In fact, I recall when my daughter was the State director, and I went with her and some others. We saw a little piece of metal sticking up in a stream and we decided to pull it, and more of us pulled, and pulled and pulled, and we got a car hooked up and pulled and pulled, and out came a sink—a whole sink. Somebody had tossed it in there. We cleaned it up. I hope that stream was better as a result.

I think of the men and women who work with children in my State, the volunteers who work with the 4-H Club, for example. During my 8 years as a prosecutor in Vermont, I went back through the records of all those who came in our juvenile courts in the county where I was the States attorney or district attorney. We had about a quarter of the population. During 8 years in that juvenile court, we never had a person in there who had been active in 4-H or active in Scouting. Those people worked so hard at it and learned good basic values, but they had a lot of adults who volunteered to help in those operations.

I daresay that every single Member of this body is for volunteers. What I am concerned about in this particular bill is that it was introduced, we never had a hearing, we have never had discussion of some of the problems—and there are some significant legal problems in it—and I think that of late the Senate has been acting that way, just taking up a big piece of legislation and rushing to the floor with it.

I raised a concern that various hate groups might be protected with their volunteers under this bill. The Senator from Georgia, the Senator from Vermont, and all the others both for and against this have a total abhorrence of hate groups. There is not a single Member of this body that will stand for the kind of thing that so many hate groups stand for.

What I have suggested is they should be looked at carefully. How do you make sure that even beyond the prohibitions against hate crimes that are in the bill that we have the prohibitions against immunizing various hate groups? Do we immunize the volunteers, and do we go further and immunize large organizations that might utilize volunteers and might not take the kind of care they should for the people that come in there, absent those volunteers, or absent that immunization?

Let me give an example. If you have a large for-profit hospital, the kind of hospital where some of the administrators and owners of it will make millions of dollars a year, where the daily care of the patients—nurses, nurses aides and others, of course, make a tiny infinitesimal fraction of that—are augmented by people who willingly come in and volunteer in those hospitals, who are not the millionaire administrators, do we want to set it up so the millionaire directors are somehow removed from that because they were wise enough to bring some volunteers in? Now, I do not think anybody wants to do that.

So let us look at this legislation. As I said, I think we could have avoided several days of discussion and cloture votes and everything else if we had just done what we normally do or should do around here, and that is have a hearing on it. I am the ranking member of the Judiciary Committee, and we are not having to take much time for hearings on Federal judges and nominations even though there are 100 vacancies in the Federal courts. We had time to spend the whole day yesterday to beat up on Janet Reno in a hearing. We could have had time to take a couple hours to hold a hearing on this bill and probably corrected the problems and we would have taken up a lot less time of the Senate in the long run.

I found very interesting the hearing with Attorney General Reno. At the end of 7, 8, or 9 hours, whatever it was, I commended her. She had listened to interminable speeches punctuated by an occasional question. She showed equanimity during the speeches, which made up most of the hearing—speeches from Senators—but also answered the occasional questions with candor and integrity. It does not mean everyone will agree with her answers.

She sure showed a streak of independence, a streak that may have bothered some, because she showed a willingness to look into inappropriate activity by Members of Congress as well as just at the White House, a matter that I realize has caused some consternation to some on the Hill, but I think it is only fair. If we look at one end of Pennsylvania Avenue, we should look at the other end. I am sure the distinguished Presiding Officer and others would agree with me in that regard.

Let us go to the bill at hand, let us continue to work together. The Senator from Georgia has been dealing in good faith, and he knows the Senator from Vermont has. We will continue to work and see if we can find something, I hope, very soon.

I see the Senator from Georgia on the floor, and I yield the floor.

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

Mr. COVERDELL. I thank the Senator from Vermont for his remarks and his interest and dedication to the effort.

I respond to him that, indeed, the effort to try to mesh the concerns on both sides is eagerly being addressed right here at the moment, and there are some positive indications, and I am hopeful that between the Senator from Vermont and his staff and ours and others that are interested in the subject, that we can show some very positive, bipartisan effort here maybe in the next couple of hours or so. Again, I thank him for the effort to create the atmosphere that would allow us to perhaps bring resolution to this matter this afternoon yet.

Mr. President, I also say I think it is fair to note that the issue has been before the Congress in one form or another since 1985. This is the first time that we have really had legislation—that is 12 years. So we are really not dealing with a subject matter for which there is unfamiliarity. We are really trying to hasten the coming together.

There is a propensity in Washington and in the Congress to mull things a bit long. We have had a summit in Philadelphia where we have had the President and three former Presidents, 30 Governors and 100 mayors say, "Now is the time. Now is the time." They have called on over 2 million Americans to step forward. We want them to be able to step forward and not get tripped up. This is exactly the time for us to be addressing this legislation. It has been studied, reviewed, and argued for 12 years. We are down to, as I have said many times, 12 pages. I am very hopeful that people of good faith and good will on both sides can mesh these 12 pages together and, hopefully, by the end of the day, at least in the Senate, we can say yes to the President's call and yes to Nancy Reagan, when she said, "I hope from now on when somebody asks for a helping hand, you just say yes." This helps American volunteers do just what she requested: Just say yes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. 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. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak for up to 10 minutes as in morning business.

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

THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. BINGAMAN. Mr. President, I want to speak a little bit about the supplemental appropriations bill, which I gather will be on the floor here

probably next week, and this issue which has come to light about the effort to put a so-called continuing resolution onto the supplemental appropriations bill. I want to just try to make sense out of that as best I understand it and describe my recollection of things.

There has been a lot of talk in the last few days about the shutdown of Government that occurred in the last Congress. I was here at that time and I remember the occasion. What was happening, as I recall it, was that the President indicated very clearly in public statements and private statements, in a variety of ways, that he would not sign appropriations bills that contained major cuts in education and some of the funds for enforcement of the environmental laws in particular. Those were areas of great concern to the President. He indicated that he wanted Congress to agree with him to maintain funding in those areas—not necessarily increase it, but at least maintain funding in some of those areas before he would sign those bills.

In spite of those statements to that effect, the majority here in Congress sent those bills to the President and he vetoed them. Accordingly, we had a shutdown of the Government. There was no funding available through that appropriations process for those areas of the Government that were covered by those appropriations bills. So, essentially, what was going on was that the majority in Congress was trying to force-feed the President to accept some proposals and some cuts in funding that he was not willing to accept, and that precipitated a crisis. Some felt strongly. Some in the majority party—the Republican Party—at the time felt strongly enough about it that they were willing to just keep the Government shut down and not send another continuing resolution, not agree to fund Government at the steady State level, but to allow the Government to stay shut down as a way of gaining leverage in those negotiations. I believe it was on the 18th day of, I think, the second shutdown when Senator Dole, the leader in the Senate, finally came to the Senate floor and spoke and said that he believed enough was enough and he himself was going to urge that a continuing resolution be passed in order to go ahead and at least keep the Government funded on a steady-state basis while negotiations between the President and the Congress continued. I came to the floor right after Senator Dole spoke, or I was here at the time he spoke, and I commended him for his decision to break with the House leadership and to go ahead, after 18 days of shutdown, and finally go ahead and fund these departments of the Government. Many of his colleagues here in the Senate followed his lead after that and agreed to go ahead and pass a continuing resolution to fund those areas of the Government.

That was the shutdown, as I recall it. That is a general description of the shutdown that occurred. What we have now is a bill to provide very important funding for a variety of subjects. It is all wrapped into this supplemental appropriation. It is a supplemental, of course, because it is not one of the regular appropriations bills which we do each year. It is a supplemental that comes at an unusual time, and the time that we are dealing with this has been driven, perhaps as much as anything, by the natural disasters that have occurred in particular parts of the country, in North Dakota, South Dakota, Minnesota, and in some other areas as well. There are some other provisions in this supplemental which are also very important. My home State of New Mexico will be able to receive, under this supplemental, $14 million of desperately needed highway funds, which should have been provided to us under last year's bill and which I made a major point about in the last Congress. We had been fighting to get this money for over 6 months. We lost it in the last set of appropriations bills.

This year, we have been able to persuade the appropriators to include it in this supplemental, and I think that is a very important step forward. So there are provisions in this bill that are important to my State highway funds, title I funds, as well as, of course, the provisions that are intended to assist with the disaster relief, which is so needed by many families that have been devastated by the weather and by the floods that they have experienced in recent weeks in these areas of the Midwest. So that is where we are.

The problem has come up that there is an amendment being included in the supplemental appropriation that is another continuing resolution, and it says that essentially if we adopt that amendment, it would say that if the Republican majority in Congress does not send the President an appropriations bill he will sign, an acceptable appropriations bill, in any area, there will be allowed to be continued funding in those areas at a rate of 2 percent less than this current fiscal year. The difficulty with it, of course, is that it again changes the dynamic very greatly against a real compromise occurring between the Executive and the Congress on these very important funding issues.

It says to the President, "Look. Before, you had the ability to veto an appropriations bill which you disagreed with, and then everyone had to go back to the table." Now, if we add this continuing resolution provision to the supplemental, that requirement won't be there anymore because there will be no pressure on the Republican Congress to go back to the table and negotiate further with the President. The President will, if we send an appropriations bill that he determines is unacceptable for whatever reason and he vetoes it, as called for in the Constitution, then there is no pressure on the Republican leaders in Congress to renegotiate. They will have in place at that point a continuing resolution, which will have been part of the supplemental, which says we are going to fund everything, and, by the way, the funding level is going to be 2 percent less than it was in the previous year, or, in the case of areas such as education, it is going to be 7 percent less than he requested for this year. That will be the steady rate, and that will be the continuing situation from now on. So there is no pressure for the compromise that the Constitution contemplates between the executive branch and the legislative branch to occur. I think it is a very ill-advised provision.

I think the President is taking the right position by saying that he will not agree to this kind of continuing resolution being adopted as part of this supplemental. But basically, if the Congress says to the President,

> If you want this relief for these flood victims, if you want this money for highways in New Mexico, if you want this money for Head Start, or for title I, or any of the other provisions in this supplemental, then you have to agree to a spending level that is 2 percent below this current year's level in all of these other areas, unless we are able to send you something else that is preferable at a later date.

This is not an acceptable proposal. I think the President is correct in refusing to agree to it.

We on the Democratic side are correct in refusing to agree to it. What we should do, and what I believe the American people would like us to do, is to go ahead and approve the supplemental appropriations bill, go ahead and appropriate the funds for flood relief, go ahead and appropriate the funds for the additional highway funding, go ahead and appropriate the additional funds for title I. Then we can have a debate, as we go through the rest of this year, on the budget resolution and on the appropriations bills. We can have a debate about what the right level of spending ought to be in each of these other areas.

We should not at the very beginning, before we have a budget resolution, before we have any appropriations bills, have some kind of legal provision that says, unless the President agrees to what the Republican majority in Congress sends him, that he has to settle for a 2-percent cut in all areas: education, environmental protection, and all of the other areas.

That is what this continuing resolution provision would do. It needs to be dropped from the supplemental appropriations bill if we are going to go ahead and pass this supplemental appropriations and have it signed into law. It is very important that it be

signed into law, and sooner rather than later.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The distinguished Senator from Georgia is recognized.

VOLUNTEER PROTECTION ACT OF 1997

The Senate continued with the consideration of the bill.

Mr. COVERDELL. Mr. President, we are very hopeful, now that we have gotten to S. 543, an accord that deals with the views and concerns of both sides can be reached, but that is not the case as yet and I thought I would take just a moment on something I wanted to acknowledge during the course of the debate.

I found it very interesting that one of the periodicals that came out following the summit in Philadelphia quoted President Clinton and President Bush. I want to share that with the Senate. President Clinton said:

> I am keenly aware of the need for strong, caring adults in a child's life. My mother taught me to see opportunities where others see only challenges. My grandfather took me with him, visiting with neighbors and teaching me about people. My grandmother read aloud to me every day so I would be able to read before going to kindergarten. I want children in every family and community to have the same chance I did.

President Bush said:

> I said it as President and I'll say it again: Someplace in this country every problem that plagues us is being solved through volunteerism, whether it's drug addiction, street crime or teenage pregnancy. Some community, through volunteers, has solved the problem.

Both of these Presidents have pointed, as most of the summit did, to the shortfall that is occurring among and for many of the youth of our Nation, which is again why I think it is so important that S. 543 garner passage here today, because it will free up so much energy to address this problem.

The other point I want to reiterate is that when you read through the statements and the work of General Powell and the others at the summit, they are not only talking about voluntarism but they are talking about voluntarism that occurs in very troubled communities. They use the terms poisonous streets and difficult environments. They are talking about not the everyday idea of an American family. They are talking about people who are products of broken families and very serious difficulties. The issue that I have tried to underscore with regard to S. 543 is that because these areas are so troubled and so difficult, it more than accentuates the need for some protection, legal protection for our volunteers who are willing to go into this area, because they are going into an environment, they are going into a situation that is troubled, volatile, abnormal, prone to difficulties and accidents, and conditions that would elevate the threat of legal ramifications.

So I think it is important that we are not talking out of the summit about some of the more traditional forms of voluntarism, many of which are not surrounded with risk, but this call for 2 million people to step forward in a difficult situation is all the more reason this Congress should take steps to make it easier for those volunteers to step forward.

Mr. President, I see my distinguished colleague from Alaska has come to the floor, and I am glad to yield the floor so that he might make his remarks.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

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

Mr. MURKOWSKI. Mr. President, I thank my friend from Georgia for his vigilance on this matter, trying to ensure that volunteers in this country are not subject to the extreme liabilities associated with their actions which, obviously, benefit all of society. I commend him for his commitment.

Mr. President, I ask unanimous consent I might make a statement as in morning business for about 6 or 7 minutes.

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

The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

BENEFITS FROM CRUISE SHIPS VISITING ALASKA LEGISLATION

Mr. MURKOWSKI. Mr. President, yesterday I reintroduced a bill that I introduced some years ago. I think it is a very important measure. It is a measure that will unlock and open a door that Congress has kept barred for over 100 years. By opening this door, we are going to create thousands of new jobs, hundreds of millions of dollars in economic activity, and significant revenue for the Federal and State and local governments. Furthermore, that door can be opened with no adverse impact on any existing U.S. industry, U.S. labor interest, or on the environment. And it will cost the Federal Government nothing.

There is no magic to this. In fact, it is a very simple matter. This bill allows U.S. seaports to compete for the ever-growing cruise ship trade, specifically to my State of Alaska, but all west coast ports, Tacoma, San Francisco, Los Angeles, and so forth, would benefit. Further, it would encourage the development of an all-Alaska cruise business as well.

The bill I propose amends the Passenger Service Act to allow foreign cruise ships to operate from U.S. ports to Alaska and between Alaska ports. However, it also very carefully protects all existing U.S. passenger vessels by using a definition of cruise ship designed to exclude any foreign flag vessel that could conceivably compete in the same market as U.S.-flag tour boats, ferries, vessels that carry cargo, et cetera.

Finally, it provides a mechanism to guarantee that if a U.S. vessel, a cruise vessel, ever enters this trade in the future, steps will be taken to ensure an ample pool of potential passengers. Specifically, it would require that foreign-flag vessels of greater passenger capacity will be required to leave the market upon the entry of any U.S. cruise ship.

People say, don't we have U.S. passenger ships? We have one, just one left: the *Constitution*, that operates off the Hawaiian Islands. The last U.S. passenger ship that was built to cruise ship capability, was the S.S. *United States*, nearly 40 years ago. We are simply not in the cruise passenger business in the United States anymore, but foreign ships from the Caribbean are. They move to Alaska and the west coast of British Columbia in the summer, where they carry passengers between American ports and foreign ports, but cannot carry passengers between U.S. ports. What we are proposing is we simply allow those vessels on the west coast to carry passengers from west coast U.S. ports such as San Francisco and Tacoma, to Alaska, and on intra-Alaska voyages.

This is a straightforward approach to a vexing problem that deserves support by this body.

Let us look at the facts. The U.S. ports currently are precluded—let me emphasize this—U.S. ports are precluded from competing for the Alaska cruise ship trade by the Passenger Service Act of—when? Of 1886. That act bars foreign vessels from carrying passengers on one-way voyages between the U.S. ports. However, it is not 1886 anymore. These days, no one—no one is building any U.S. passenger ship of this type. And no one has built one in over 40 years. The S.S. *United States* was the last one.

Let me again emphasize that it is not 1886 anymore. These days, no one is building any U.S.-flagged, U.S.-crewed, U.S.-built cruise ships of the type that are in the cruise business and sail out of Caribbean ports in the wintertime and out of Vancouver, British Columbia, to Alaska in the summertime.

Because there are no U.S. vessels in this important trade, the only real effect the Passenger Service Act has been to force all vessels sailing to my State of Alaska to base their operations in a foreign port, namely Vancouver, British Columbia.

In essence, Mr. President, what we have here is an act of Congress prohibiting U.S. cities from competing for thousands of jobs, and for hundreds of millions of business dollars. This is absurd. It is worse than absurd. In light of our ever-popular election year promises to keep the economy growing, I suggest it belongs to Letterman's top 10 reasons why Congress oftentimes does not know what it is doing.

Can anyone argue with a straight face for the continuation of a policy that fails utterly to benefit any identifiable American interest, while actively discouraging economic growth?

This is not the first time I have introduced this legislation. When I began the process, Alaska-bound cruise passengers totaled about 200,000 per year. By last year, 445,000 people, most of them American citizens, were making that voyage. This year's traffic may exceed 500,000 people. Almost all of those passengers are sailing to and from Vancouver, British Columbia, not because Vancouver is necessarily a better port, but because our own foolish policy demands it.

I have nothing but admiration for my friends in British Columbia and the city of Vancouver. They have done a fine job. But we are simply spiting ourselves and our own U.S. interests and it is time we looked at this issue rationally. The cash flow generated by this trade is enormous. Most of these passengers fly in and out of Seattle-Tacoma International Airport in Washington State, but because of this law they spend little time there. Instead they spend their pre- and post-sailing time in a Vancouver hotel, in a bus to Vancouver, at a Vancouver restaurant, a Vancouver coffee shop, and when their vessel sails it is loaded with food, fuel, general supplies, repair, maintenance needs taken care of—by Canadian vendors.

There is nothing wrong with that, but this business could be in the United States. According to some of our estimates, the city of Vancouver receives benefits of well over $200 million a year. Others provide more modest estimates, such as a comprehensive study done by the International Council of Cruise Lines, which indicated that in 1992 alone, the Alaska cruise trade generated over 2,400 jobs for the city of Vancouver, plus payments to Canadian vendors and employees of over $119 million.

If that business had taken place in the United States, in U.S. ports such as Tacoma or San Francisco, it would have been worth additional Federal, State and local tax revenues of approximately $60 million.

I note that there is interest now in ports in South Carolina to offer sailings along the eastern seaboard. It is interesting to note also that we have already seen fit to exempt Puerto Rico from the Passenger Service Act, under less onerous restrictions than in this bill, so that foreign vessels are allowed to from the United States to the territory of Puerto Rico. So we have made these exceptions, they can work without destroying the fabric of our life, and there is no justification why this should not also be done for voyages from the west coast to Alaska.

In addition to the opportunities now being shunted to Vancouver, we are also missing an opportunity to create entirely new jobs and increased income flow by developing new cruise routes between Alaska ports.

The city of Ketchikan, AK, was told a few years ago that there were two relatively small cruise lines that were very interested in establishing short cruises within southeastern Alaska, and indeed, were interested in basing their vessels in Ketchikan. I am told such a business could have contributed as much as $2 million or more to that small community's economy and created dozens of new jobs, but because of the current policy, the opportunity simply evaporated.

Why, Mr. President, do we allow this to happen? This is a market almost entirely focused on U.S. citizens going to see one of the most spectacular States of the United States, namely, Alaska, and yet we force them to go to another country, Canada, to do it. We are throwing away both jobs and money and getting nothing in return. Why is this allowed to happen? The answer is simple, but it is not rational.

Although the current law is a job loser, there are those who argue that any change would weaken U.S. maritime interests. I submit that simply is not the case. For some inexplicable reason, paranoia seems to run deep among those who oppose this bill. They seem to feel that, by amending the Passenger Service Act so that it makes sense for the United States and would create jobs, somehow it is a threat to the Jones Act. That is not true. The vessels covered under the Jones Act haul freight, not passengers, between U.S. ports. They are required to be U.S. built, U.S. crewed, and U.S. documented, and because this protects an existing industry, we support that. But the circumstances for freight vessels do not exist for passenger ships.

There is simply no connection whatsoever between the two issues. I have repeatedly made it clear that I have no intention of using this bill to create cracks in the Jones Act. This bill would actually enhance, not impede, opportunities for U.S. workers—shipyard workers and certainly longshoremen, not to mention hotel and restaurant workers, and many others who would have a great deal to gain from this legislation.

The bill has been carefully written to prevent the loss of any existing jobs in other trades. As I have said before, Puerto Rico already enjoys an exemption from the Passenger Service Act. We looked at that exemption—which has worked successfully—and drafted this effort with even more care in mind.

Finally, there can be no suggestion that this bill might harm smaller U.S. tour or excursion vessels built in U.S. yards with U.S. crews. The industry featuring these small vessels is thriving and doing well but simply does not cater to the same clientele and same base as the larger cruise ships. For one thing, the tour boats operating in Alaska are much smaller. The smallest foreign flag vessel eligible under this is Carnival Cruise Lines *Wind Star*, which is about 5,700 gross deadweight tons. It overnights approximately 159 passengers.

By contrast, although the largest U.S. vessel in the Alaska trade is rated at 138 passengers, she is less than 100 gross deadweight tons. This means there is a vast difference between these two vessels. The small U.S. vessels should be protected from foreign competition, and our bill does that, but it does so with the realization that not all markets, and not all passengers, are the same.

The fact of the matter is that there is no significant competition between the two types of vessels, because the passengers inclined to one are not likely to be inclined to the other. The larger passenger vessels offer unmatched luxury, personal service, onboard shopping, entertainment, gaming and so forth. The smaller vessels offer more flexible routes, the ability to get closer to the extraordinary natural attractions along the way and are able to get into the smaller communities.

Now Mr. President, in the spirit of full disclosure, let me acknowledge that there is one operating U.S. vessel that does not fit the mold, as I mentioned earlier. That is the *Constitution*, an aging 30,000-ton vessel operating only in Hawaii. It was a U.S. flag vessel that was built years ago to operate in the United States. It went out of U.S. operation, into foreign flag service, then was refitted. It took action by Congress to allow it to come back into the U.S. trade.

This is the only oceangoing-capable U.S. ship that might fit the description of a cruise vessel, but I question its ability to compete, certainly in the market with the newer cruise vessels. And I repeat, it is the only one. I searched for other U.S. vessels that meet or exceed the 5,000-ton limit in the bill, and the only ones I found that even approach it are the *Delta Queen* and the *Mississippi Queen*, both of which are approximately 3,300 tons and both

of which are somewhat like 19th century riverboats. They can operate on the Mississippi and other large rivers, but are entirely unsuitable for any open-ocean itinerary.

I cannot claim this legislation would immediately lead to increased earnings to U.S. ports. There are advantages of operating out of Vancouver—the sailing time to Alaska is shorter, and so forth. But I can say that it would allow U.S. ports—ports like Tacoma and San Francisco—to compete fairly for this lucrative business.

Instead of being anchored by a rule that is actively harmful to U.S. interests, as I said at the beginning, this is only a way to open the door so we can look at what we are losing and look at what we can gain.

We heard a lot of talk about growing the economy and creating jobs during the last years, and we all know that such changes are easy to talk about but difficult to accomplish. Here is a bill that opens up the door to thousands of jobs and hundreds of millions of dollars, and can do it without 1 red cent of the taxpayers' money. Isn't that worth thinking about?

It has been 110 years since the current law was enacted, and it is time for a change.

VOLUNTEER PROTECTION ACT OF 1997

The Senate continued with the consideration of the bill.

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

Mr. COVERDELL. Mr. President, I ask unanimous consent that during the pendency of S. 543, there be 30 minutes for debate, to be equally divided between Senators COVERDELL and LEAHY or their designees, with an additional 15 minutes under the control of Senator MCCONNELL; that there be one amendment in order only, to be offered by Senator COVERDELL, encompassing the managers' agreed-upon language, that there be 40 minutes of debate on the amendment to be equally divided between Senators COVERDELL and LEAHY or their designees, that no other amendments or motions be in order and, following the disposition of the amendment, the bill be advanced to third reading and there be an additional 10 minutes for debate to be equally divided between Senators COVERDELL and LEAHY.

Mr. President, this agreement has been cleared by the ranking minority member.

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

AMENDMENT NO. 53

(Purpose: To provide a complete substitute)

Mr. COVERDELL. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. COVERDELL], for himself, Mr. LEAHY, Mr. ASHCROFT, Mr. MCCONNELL and Mr. ABRAHAM, proposes an amendment numbered 53.

Mr. COVERDELL. Mr. President, I ask unanimous consent that 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 "Volunteer Protection Act of 1997".

SEC. 2. FINDINGS AND PURPOSE.

The Congress finds and declares that—

(1) the willingness of volunteers to offer their services is deterred by the potential for liability actions against them;

(2) as a result, many nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, and other civic programs, have been adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs than would be obtainable if volunteers were participating;

(4) because Federal funds are expended on useful and cost-effective social service programs, many of which are national in scope, depend heavily on volunteer participation, and represent some of the most successful public-private partnerships, protection of volunteerism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal legislation;

(5) services and goods provided by volunteers and nonprofit organizations would often otherwise be provided by private entities that operate in interstate commerce;

(6) due to high liability costs and unwarranted litigation costs, volunteers and nonprofit organizations face higher costs in purchasing insurance, through interstate insurance markets, to cover their activities; and

(7) clarifying and limiting the liability risk assumed by volunteers is an appropriate subject for Federal legislation because—

(A) of the national scope of the problems created by the legitimate fears of volunteers about frivolous, arbitrary, or capricious lawsuits;

(B) the citizens of the United States depend on, and the Federal Government expends funds on, and provides tax exemptions and other consideration to, numerous social programs that depend on the services of volunteers;

(C) it is in the interest of the Federal Government to encourage the continued operation of volunteer service organizations and contributions of volunteers because the Federal Government lacks the capacity to carry out all of the services provided by such organizations and volunteers; and

(D)(i) liability reform for volunteers will promote the free flow of goods and services, lessen burdens on interstate commerce and uphold constitutionally protected due process rights; and

(ii) therefore, liability reform is an appropriate use of the powers contained in article 1, section 8, clause 3 of the United States Constitution, and the fourteenth amendment to the United States Constitution.

(b) PURPOSE.—The purpose of this Act is to promote the interests of social service program beneficiaries and taxpayers and to sustain the availability of programs, nonprofit organizations, and governmental entities that depend on volunteer contributions by reforming the laws to provide certain protections from liability abuses related to volunteers serving nonprofit organizations and governmental entities.

SEC. 3. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

(a) PREEMPTION.—This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to volunteers or to any category of volunteers in the performance of services for a nonprofit organization or governmental entity.

(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This Act shall not apply to any civil action in a State court against a volunteer in which all parties are citizens of the State if such State enacts a statute in accordance with State requirements for enacting legislation—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply, as of a date certain, to such civil action in the State; and

(3) containing no other provisions.

SEC. 4. LIMITATION ON LIABILITY FOR VOLUNTEERS.

(a) LIABILITY PROTECTION FOR VOLUNTEERS.—Except as provided in subsections (b) and (d), no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if—

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

(A) possess an operator's license; or

(B) maintain insurance.

(b) CONCERNING RESPONSIBILITY OF VOLUNTEERS TO ORGANIZATIONS AND ENTITIES.—Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) NO EFFECT ON LIABILITY OF ORGANIZATION OR ENTITY.—Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) EXCEPTIONS TO VOLUNTEER LIABILITY PROTECTION.—If the laws of a State limit volunteer liability subject to one or more of the

following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(4) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(e) LIMITATION ON PUNITIVE DAMAGES BASED ON THE ACTIONS OF VOLUNTEERS.—

(1) GENERAL RULE.—Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) CONSTRUCTION.—Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(f) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—

(1) IN GENERAL.—The limitations on the liability of a volunteer under this Act shall not apply to any misconduct that—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(C) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(D) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(E) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to effect subsection (a)(3) or (e).

SEC. 5. LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In any civil action against a volunteer, based on an action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity, the liability of the volunteer for noneconomic loss shall be determined in accordance with subsection (b).

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant who is a volunteer shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant who is a volunteer under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) HARM.—The term "harm" includes physical, nonphysical, economic, and noneconomic losses.

(3) NONECONOMIC LOSSES.—The term "noneconomic losses" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

(4) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(5) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) VOLUNTEER.—The term "volunteer" means an individual performing services for a nonprofit organization or a governmental entity who does not receive—

(A) compensation (other than reasonable reimbursement or allowance for expenses actually incurred); or

(B) any other thing of value in lieu of compensation,

in excess of $500 per year, and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect 90 days after the date of enactment of this Act.

(b) APPLICATION.—This Act applies to any claim for harm caused by an act or omission of a volunteer where that claim is filed on or after the effective date of this Act, without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

Mr. COVERDELL. Mr. President, let me explain our disposition. While there is considerable more time in the unanimous consent, it is anticipated that there would be a delegating of time back so we might vote as closely to 2 o'clock as possible. So, I would like to proceed to explain this amendment so we might get this piece done. There are conditions that are affecting certain Members that would require, hopefully, we could vote as close to 2 o'clock as possible.

Mr. President, I want to explain to our colleagues. First, I thank the ranking member, the Senator from Vermont, Senator LEAHY. It has been a long week for both of us. He and his staff and colleagues have worked diligently with this Senator and his staff and colleagues throughout the morning to arrive at the amendment that has just been forwarded to the desk under unanimous consent.

This substitute adds a finding to clarify the Federal role in civil liability matters related to voluntarism. The substitute clarifies the State opt-out section, to ensure the provision does not supersede State requirements for enacting legislation and allows for States to include an effective date. The substitute clarifies the punitive damage protections only relate to cases that are based on the actions of the volunteer and do not supersede more restrictive Federal or State laws.

The substitute would clarify that the specific exemptions in the bill for cases of violent crime, sex offenses, hate crimes, civil rights violations, and DUI, do not restrict the general exemption where the harm was willful or criminal misconduct, gross negligence, reckless misconduct or conscious, flagrant indifference to the rights or safety of the individual harmed.

The substitute clarifies that the joint and several liability limitations for noneconomic damages and the punitive damage limitations only apply to defendants who are volunteers. The substitute clarifies that the volunteer can receive reimbursement for reasonable expenses and still be considered a volunteer.

I and the other authors on our side have concurred with these changes. We still believe the version we submitted, S. 543, was reasoned and balanced, but feel that this is a compromise that gets us to the target we were after—the shield for the volunteer. And in these actions, assuming we receive a favorable vote, we will have responded responsibly and rightfully to the call of the administration, President Clinton, and Presidents Bush, Ford, and Carter, to launch a new era in voluntarism in the United States.

With that brief statement, I yield the floor.

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

Mr. MURKOWSKI. Mr. President, I am pleased to learn we have worked out a compromise with the other side on this very important issue. I commend the Senator for his diligence and commitment to proceed with a solution that is going to be in the best interests of voluntarism.

Mr. COVERDELL addressed the Chair.

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

Mr. COVERDELL. Mr. President, let me give the disposition of our situation on S. 543. We are trying to communicate to the principal authors so that they might have a chance to make closing comments with regard to the amendment that I have submitted, and we are still endeavoring to try to vote between 2 and 2:15.

While we are waiting for those Senators to arrive, I will talk about what the passage of this bill will mean, an achievement that will be secured in the Senate.

We will have effectively responded to a circumstance that has been developing since the mid-1980's when volunteers suddenly found themselves the targets of lawsuits in the act of volunteering. Prior to that time, very little of this type of legal allegation occurred. We have discovered that voluntarism has been chilled and threatened and pushed back and been less exuberant. Volunteers' behavior is even different when they do volunteer because of the threat of legal consequences.

When we pass this legislation, S. 543, and hopefully ultimately pass it in the House and send it to the President and he signs it, we will have created a protective buffer, a shield for the well-meaning volunteer, the volunteer who experiences a simple accident or omission. We have heard some of the stories on the floor of the Senate. A coach who has a player who inadvertently slides into home head first instead of feet first will not have to spend long nights awake wondering whether, because he was or she was a volunteer, they will lose their home and assets and checking account, et cetera. The principle we will have accomplished is to protect a volunteer from being under assault for that kind of omission.

The second thing we will have achieved is that the volunteer will no longer be looked at as the deep pocket. If they volunteer for an organization that does not have any resources, they may have a home, or something to that effect, and so the suit goes to the volunteer instead of the organization. But now the volunteer cannot be held liable for anything more than their proportional responsibility. So the story we talked about on the floor of the Senate yesterday and today of the woman who was nothing more than a receptionist out front answering a phone while an accident occurred in the gym will no longer be held liable for the fact that something went wrong somewhere else.

So this is very meaningful, as I said a moment ago, a very significant congressional initiative that keeps the legacy of the summit alive and helps fuel the call for new volunteers.

The Senator from Pennsylvania, Senator SANTORUM, said earlier today that one of the concerns of the summit was that it would flame out, that after all the glitz and the visuality of seeing the celebrities and political leaders gathered together, what would keep it going? I think S. 543 will be one response from the Congress, one opportunity to keep the fuel under the idea of more and more Americans stepping forward in a very, very difficult time.

Mr. President, I am hopeful that we will be able to conclude this vote, if at all possible, by at least 2:15.

Mr. HATCH. Mr. President, I am pleased today to announce my strong support for S. 543, the Volunteer Protection Act.

As the excitement surrounding this week's in Philadelphia have so poignantly illustrated, ours is a Nation that has a particular dependence on the volunteer movement. Nonprofit organizations mobilize volunteers by drawing on their members' special talents to meet social or economic needs. Volunteer organizations are currently deeply involved in such activities as alleviating hunger, educating the public about the dangers of drug and alcohol abuse, providing care of the elderly and infirm, providing athletic programs for our Nation's youth, providing opportunity for the poor, building housing for the homeless, promoting literacy and education, finding missing children, teaching fire safety, aiding victims of natural disasters, providing moral education for our youth, and spreading American ideals across the world. In fact, according to a 1990 study by the Hudson Institute, which polled approximately 5,500 associations, volunteer time in America was conservatively estimated to total $3.3 billion per year.

This is nothing new. In his 1835 commentary of our country, the epic "Democracy in America," Alexis de Toqueville noted that America was a nation of joiners. To de Toqueville this was very significant. Nongovernmental charitable, religious, and community organizations combined with the family and other natural social units to form what he termed "intermediary" organizations—organizations that impede the trend toward centralization of virtually all administration in the national government. It is these intermediary groups that are essential in protecting the liberty of the individual and community from the regulatory state.

In recent times, there has been an awareness of the need to strengthen volunteer organizations as a way to buttress the newly rediscovered virtues of limited government. Americans are coming to realize that government should not and cannot be relied on to provide all social services. The gap between American needs and American resources must be filled by the generous efforts of our volunteer corps. But the current litigation nightmare sweeping our Nation is going a long way to hinder the efforts of these important volunteers. This at a time when we must be doing everything possible to encourage the spirit of voluntarism.

Mr. President, I'd like to illustrate for you a couple of reasons why I believe the litigious nature of our society is dampening the spirit of voluntarism. A Gallup study revealed the large extent to which the threat of lawsuits, and the prohibitive cost of liability insurance, have a negative effect on volunteer participation in charitable organizations. The survey found that nearly 20 percent of all nonprofit organizations in the United States have experienced volunteers withholding service or resigning due to fear of liability exposure. This figure represents a very significant portion of the volunteer community. Specifically, 1 in 10 nonprofit organizations have experienced the resignation of a volunteer due to liability concerns. Let's do the math—with approximately 600,000 nonprofit organizations in America, we know that 48,000 volunteers have been lost during the past few years strictly due to liability concerns. Additionally, one in six volunteers report withholding their services due to fear of exposure to liability suits. This means that 100,000 potential American volunteers have declined to serve due to fear of exposure to lawsuits. This is an extraordinary figure.

Additionally, the rate voluntarism has been steadily declining in recent years. The percentage of Americans volunteering dropped from 54 percent in 1989 to 48 percent in 1993. Sadly, charitable donations are also declining, falling roughly $100 per household during this same short period. However, in 1991 alone, Americans spent a hefty $132 billion on the civil justice system. As a result, it is not surprising to note that liability insurance premiums for nonprofit organizations continue to rise.

These figures demonstrate that the on-going litigation craze has seriously damaged the spirit of voluntarism. I would like to document several cases that stand out in particular:

Lawyers for an injured mountain climber sued volunteer rescuers for $12 million on the grounds that their rescue methods were negligent and reckless. Prior to assisting this particular

climber, the rescue team successfully and carefully made hundreds of rescues without incident.

In February 1995, Cleighton Hall, then CEO of Little League Baseball, wrote in the Wall Street Journal that Little League had turned into "Litigation League." In one instance, two youngsters collided in the outfield, picked themselves up, dusted themselves off, and sued their coach. In another instance, lawyers won a large cash settlement when their client was struck by a ball that a player failed to catch—that player, strangely enough, was the client's daughter. Finally, trial attorneys for a child in Runnymeade, NJ, filed suit against the youth's coach when he was struck by a flyball in center field.

Finally, a boy in a scouting unit with the Boy Scouts of the Cascade Pacific Council suffered a paralyzing injury in a game of touch football. Several adults volunteered to supervise the trip. The youth's attorneys filed a personal injury suit alleging that the Boy Scouts and the volunteers were negligent for failing to supervise the youth adequately. The jury found that the volunteers were personally liable for $7 million. Oregon law ultimately caused the judgment to be reduced to around $4 million, but few Boy Scout volunteers can afford this kind of judgment.

Anyone who has been a Boy Scout or has volunteered in any capacity knows that certain accidents are impossible to prevent. The basic problem is that the actions of this Nation's greedy trial lawyers are serving to undermine the positive effects of voluntarism. Clearly, Mr. President, the current situation cries out for reform.

The Volunteer Protection Act helps charities and nonprofit organizations serve their communities by giving their volunteers immunity from lawsuits. Volunteers who act in a grossly negligent or incompetent manner are, of course, not be protected under the legislation.

This bill will provide a volunteer protection from litigation in cases where, first, the volunteer was acting within the scope of the volunteer's responsibilities; second, the volunteer was properly licensed, certified, or authorized by the State in which the harm occurred, if such authorization is required; and third, the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer.

The bill also limits punitive damages that may be awarded against volunteers based on harm caused by a volunteer acting within the scope of the volunteer's responsibilities. Punitive damages against any such defendant will be available only where the claimant demonstrates by clear and convincing evidence that the volunteer caused the harm through willful or criminal misconduct.

Finally, while the bill preempts State law to the extent that it is inconsistent with the bill, the bill will not preempt any State laws that provide additional protections from liability relating to volunteers or nonprofit organizations.

Mr. President, this bill is consistent with the overall thrust and punitive damages reforms of my bill, S. 79, the Civil Justice Fairness Act. I am proud to support it as another step in our march toward complete civil justice reform.

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

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

Mr. THOMAS. Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. COVERDELL. Mr. President, I yield up to 10 minutes of my time to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator has 8 minutes left.

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

The PRESIDING OFFICER. The Senator from Wyoming has 5 minutes.

Mr. THOMAS. Thank you, Mr. President.

First, let me say how much I have appreciated the efforts of the Senator from Georgia in promoting this legislation, this Volunteer Protection Act of 1997. I think probably most everything about the bill has been said. I am delighted to hear that there has been an agreement. I can hardly imagine that anybody does not agree with the concept of making it easier for people to volunteer, of taking away some of the kinds of threats that have inevitably been there when someone does volunteer to serve. So I am very pleased about that.

I think it is true—and I guess I will probably be saying some of the same things again—it is true that the nature of this society, this democracy, requires that people care. It is a Government of the people and by the people, and designed to be a relatively minimal Government in that it sets a framework for us to do the things that we think should be done, for us to take the leadership to cause our communities to be strong.

The Federal Government clearly has a role. But, you know, the more I am here, Mr. President, and the more I see what I think is the role of the Federal Government, the more I am impressed with the fact that you and I make our communities strong there. And much of that is because we are willing to volunteer. I think it was the Frenchman de Tocqueville who came to examine and to explore and to look into this new idea of democracy. One of the things that he observed and found to be most important was this was a country, this was a society that was doing things together for each other voluntarily. And that still is—that still is—the root, it seems to me, of our society. The role of the Federal Government is minimal in that.

I was pleased with the President and the several Presidents last week who raised the image and raised the visibility of voluntarism. But the fact is, national voluntarism is not really the key. It is in Casper, WY, or Gillette, WY, or Louisville, KY. That is where voluntarism works and that is where it will continue to work.

So I think this bill is something we all should support. I am so delighted that the sponsors have done this, worked on it. I am delighted that we will be able to vote and vote positively on it in a few minutes.

I see some others wishing to speak, Mr. President, so I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I now ask for the yeas and nays on final passage of S. 543.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

Mr. McCONNELL addressed the Chair.

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

Mr. McCONNELL. Mr. President, this is a very significant bill. I want to commend the Senator from Georgia for his leadership which has brought us to this point this year. As he knows, I introduced similar legislation in 1990 and in 1993 and again in 1995. So I take particular pride in seeing it moved to this point where, hopefully, it will pass the Senate in the next minutes ahead.

This bill really, Mr. President, comes from the grassroots of American voluntarism. This bill sprang from the concerns and complaints of volunteers and national leaders in the volunteer community, thoughts of the men and women who are on the frontlines in our national volunteer efforts.

Just last week over on the House side we heard from Terry Orr, a former Washington Redskins football player. He said when he came into the NFL a few years ago players were asked to volunteer, and they responded, "Just tell me where to go." There was not a moment's hesitation. In today's litigious world, players are asked to volunteer, and they respond, as Terry Orr said, "Do we have coverage?"

Players are afraid to play a benefit ballgame or do any kind of volunteer activity without engaging in extensive discussions with their lawyers. That is today's environment, Mr. President.

Lynn Swann, another famous football player with the Pittsburgh Steelers, is a commentator on one of the networks. He was also at that press conference. He is the immediate past president of Big Brothers/Big Sisters of America. This is what he had to say. He said in the late 1980's the Big Brothers/Big Sisters federation endorsed Federal volunteer protection legislation. According to Lynn Swann, the Big Brothers and Big Sisters organization endorsed the legislation because "a series of high visibility law suits against direct service volunteers had dampened [the] enthusiasm for volunteering in our program."

He went on to say the legislation was necessary because: "We [can] not afford to lose prospective, high quality volunteers due to liability fears."

That was Lynn Swann and Terry Orr, two former professional football players, just expressing their own experience in this highly litigious society in which we live and how it affects the willingness of people to volunteer their time.

William Cople, former pro bono general counsel for the National Capital Area Council of the Boy Scouts of America has written as follows:

> Volunteer service is under assault from an unlikely quarter—the civil justice system.

The civil justice system.

> Like so many others, volunteers and their service organizations have been swept into the courts to face potential liability in civil suits.

Thomas L. Jones of Habitat for Humanity International also testified just this past week that volunteers across the United States have declined service on Habitat for Humanity boards "because of perceived liability responsibility."

Mr. President, the bill before us protects volunteers who serve on the boards of nonprofit organizations.

H.R. 911, a bill over on the House side, however, provides little protection for volunteers who want to serve as officers on nonprofit boards. H.R. 911 defines volunteer so narrowly that it excludes anyone who receives reimbursement for expenses of $300 per year. And H.R. 911 would not—I repeat, not—cover a volunteer who serves in a rape crisis center or a child abuse center and gets reimbursed $30 a month for reasonable expenses, such as transportation costs. In other words, the bill over in the House is simply too narrow.

Our bill allows a volunteer to be fully reimbursed for reasonable expenses.

The opponents of volunteer protection argue that: This legislation is not necessary because there is no comprehensive digest of jury awards against volunteers. That is the argument.

First, let me say I have already cited several examples of outrageous lawsuits and jury verdicts. Second, the fact that jury verdicts are not rendered against volunteers every month is simply not relevant—simply not relevant.

Most lawsuits settle before trial and thus are unreported. The chilling effects of even one case is astounding.

As the Boy Scouts' former general counsel has explained, "a legal judgment entered in a single case can have a multitude of consequences extending far beyond that case itself. This surely is a reason for concern in the case of volunteers to service organizations."

We have heard opponents argue that the bill is too broad and might offer immunity to the Ku Klux Klan or other organizations whose views we all abhor. This argument fails for several reasons.

Organizations are not granted immunity from lawsuits under this bill.

A volunteer is not covered under this bill if the volunteer engages in willful misconduct, specifically including hate crimes or civil rights violations.

It is not at all clear that the KKK would be covered as a nonprofit entity that exists primarily for public benefit and operates primarily for charitable purposes.

Survey of State volunteer protection laws indicates that there are States that define "nonprofit organization" in the same manner as S. 543 or even broader. Yet, no one can come up with any examples from those States where KKK members were immune from lawsuits. The KKK argument is an offensive and bogus bogeyman argument.

Mr. President, also, opponents argue that this is a matter of States rights. I am constantly amazed to hear people make that argument. It is reminiscent of the argument against the civil rights laws in the 1960's where opponents said this really is a States rights matter, not a matter for the Federal Government.

The same argument was made against national voting rights legislation. And a lot of the folks who were the most enthusiastic for that kind of legislation now turn around and start arguing that the States rights is a good argument to not deal with what is clearly a national problem with national implications which needs a national solution.

Opponents also argue that some States have some protections for some volunteers in some circumstances. Well, that is not good enough. That kind of patchwork protection is simply not going to get the job done.

In my State we have some basic protections for volunteers. But these Kentucky protections are of no benefit to a Kentucky volunteer who goes to help his neighbor in one of the seven States which border the Commonwealth of Kentucky.

Volunteers, Mr. President, should not have to hire a lawyer in order to cross State lines to help their neighbor.

Bob Goodwin, president and CEO of the Points of Light Foundation, testified last week that a national solution is necessary because "there is no consistency among our States with regard to volunteer liability statutes, and that lack of consistency has led to confusion in the volunteer community."

Let me quote another leader in the national volunteer movement. John H. Graham, CEO of the American Diabetes Association, also testified last week on behalf of the National Coalition for Volunteer Protection. This is what he had to say:

> We have seen recently that otherwise qualified and willing individuals are withholding their services out of fear of liability and confusion concerning the different volunteer protection laws on the books in many states. These are individuals who would help house and feed the homeless, who would treat and support the elderly, and who would clothe and care for the poor.

So in summary, Mr. President, our national volunteer movement is built upon the idea of loving your neighbor as yourself, of being a good Samaritan, of stopping alongside the road and lending your neighbor a helping hand.

People from my home State of Kentucky understand this concept. Their neighbor is not just the child across the street, but it is the family across the bridge or across the State line.

If the Kentucky Red Cross volunteer wants to cross over into Tennessee or Ohio or Illinois or Indiana or West Virginia or Virginia and help his neighbor recover from a flood, then he should not have to call his lawyer to check on his liability potential in a surrounding State. We must have a uniform minimum standard.

The principles of loving your neighbor, of being a good Samaritan are woven deeply into the fabric of our Nation. We need to find ways to free up this spirit, not to suppress it. We must inspire and encourage people to do good works, not sue and harass and discourage.

Those who say that our volunteers do not need this legislation have obviously not been talking to the people on the frontlines.

My longstanding interest in this issue comes from talking to volunteers like the very ones that I have mentioned here today. However, I must confess, Mr. President, that one particular volunteer leader has had my ear on this issue for quite awhile. That is my wife, Elaine, who is a former Director of the Peace Corps and former president and CEO of the United Way of America. She has been involved in this battle for a long time and understands fully the implications.

So, Mr. President, let me close by again thanking Senator COVERDELL for his leadership, and the others who participated in this. This is an extremely important piece of legislation which I hope will pass the Senate overwhelmingly.

I yield the floor.

Mr. LEAHY. Mr. President, I do wish to thank my friend from Georgia, Mr. COVERDELL. With the Coverdell-Leahy-Ashcroft-McConnell and others substitute, I think this piece of legislation has been substantially improved.

So Members know, we have limited it to individual volunteers. The bill is no longer intended to provide immunity or limitation of liability for organizations. I think it is also important that the original sponsors of the bill agree not to include any limitation on motor vehicle liability, even as it relates to individuals. I think that is important.

I believe this bill has been significantly modified. It is not precisely the bill I would have written, but it is not precisely the bill my friend from Georgia would have written. I think it reflects what is best in the Senate when both sides can give and come out with something that can be better and more acceptable to a broad cross-section of Senators. Most of us do have concerns if we preempt State laws. In this, we have tried as best as possible to preserve State options.

I do not believe the threat of litigation deters Americans from volunteering to help neighbors, and did not deter the hundreds and hundreds who volunteered in floods in the Dakotas or in so many other areas we have seen in recent times. I am glad we have been able to limit the reach of the Federal protections provided, but we will be able to help individual volunteers. They should have some insulation from honest mistakes. We all want volunteers to be able to help whenever they can and worry most about how much stamina they will have to help, and have that be their chief concern.

So we will continue to work on this. Of course, it will have to go through conference, and we will make sure there is no unintended benefit or defenses available to anybody, and that nobody is harmed or left without a remedy.

We have seen an extraordinary week, as I said, in Philadelphia, with the President of the United States, together with past Presidents, the wife of a past President, General Powell, and others, who came together to promote voluntarism. We do not want to do anything to hamper that.

Again, I thank my friend from Georgia. I thank Ed Pagano and Jonathan Lamy on the Judiciary Committee staff, and all the others on both sides of the aisle who worked to make this legislation better.

I am prepared to yield if there is any time left on this side, and am prepared to go to vote on the Coverdell-Leahy substitute.

Mr. COVERDELL. I will take just a few minutes of my time, then do the same as the Senator from Vermont and yield back time and proceed to the vote.

I want to take a moment to thank Senator LEAHY and his staff. It is interesting how life makes people's paths cross each other from time to time. He and I have done so now on various occasions over the last decade. As always, I have found him to be an admirable either adversary or cooperator, but always with well-intentioned and good purpose. I thank him for his attention to this matter and the assistance both here and on those occasions in the past.

I also want to thank Senator MCCONNELL. Senator MCCONNELL has labored in this area for years and has made contributions to this legislation that are exceedingly significant. I am very grateful for his assistance on this matter, as well as Senators ASHCROFT, SANTORUM, and others.

I want to acknowledge the work of Kyle McSlarrow, Terri Delgadillo, and Dan McGirt on our side who have worked so hard to iron out the differences so we could produce this meaningful piece of legislation.

The hour is 2:05. We said we would vote as near as possible to 2 o'clock. I yield back all time on our side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 53) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. There are now 10 minutes equally divided.

Mr. LEAHY. All time is yielded back.

Mr. COVERDELL. We yield back all time on this side.

The PRESIDING OFFICER. The question is on final passage of S. 543 as amended. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—99

Abraham	Coats	Glenn
Akaka	Cochran	Gorton
Allard	Collins	Graham
Ashcroft	Conrad	Gramm
Baucus	Coverdell	Grams
Bennett	Craig	Grassley
Biden	D'Amato	Gregg
Bingaman	Daschle	Hagel
Bond	DeWine	Harkin
Boxer	Dodd	Hatch
Breaux	Domenici	Helms
Brownback	Dorgan	Hollings
Bryan	Durbin	Hutchinson
Bumpers	Enzi	Hutchison
Burns	Faircloth	Inhofe
Byrd	Feingold	Inouye
Campbell	Feinstein	Jeffords
Chafee	Ford	Johnson
Cleland	Frist	Kempthorne
Kennedy	McConnell	Sarbanes
Kerrey	Mikulski	Sessions
Kerry	Moseley-Braun	Shelby
Kohl	Moynihan	Smith (NH)
Kyl	Murkowski	Smith (OR)
Landrieu	Murray	Snowe
Lautenberg	Nickles	Specter
Leahy	Reed	Stevens
Levin	Reid	Thomas
Lieberman	Robb	Thurmond
Lott	Roberts	Torricelli
Lugar	Rockefeller	Warner
Mack	Roth	Wellstone
McCain	Santorum	Wyden

NAYS—1

Thompson

The bill (S. 543), as amended, was passed.

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

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—S. 672

Mr. LOTT. Mr. President, I ask unanimous consent that at 1 p.m. on Monday, May 5, the Senate turn to consideration of calendar No. 43, S. 672, the supplemental appropriations bill.

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

Mr. LOTT. Mr. President, for the information of all Senators, then there will be no further rollcall votes today nor on Friday. We have a prior agreement with the Democratic leadership that we would not have a session on Friday because of a meeting that they have. We have a similar agreement for Friday of next week because of a meeting that we have.

The Senate will shortly begin debate on the motion to proceed to S. 4, the flextime/comptime bill.

On Monday, at 1 p.m., the Senate will begin consideration of the supplemental appropriations bill. Amendments are expected to be offered. Therefore, votes could occur but are not expected prior to 5 p.m. on Monday.

As we work through agreements on amendments, or getting an understanding about amendments, we will let Senators know what time they may expect votes late Monday afternoon, Tuesday, or early.

FAMILY FRIENDLY WORKPLACE ACT—MOTION TO PROCEED

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now

proceed to the consideration of Calendar No. 32, S. 4, the flextime legislation.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

Mr. LOTT. Mr. President, in light of that objection, I move to proceed to Calendar No. 32, S. 4, the flextime bill.

The PRESIDING OFFICER. The question is on the motion.

Mr. LOTT. Mr. President, we will have some debate, I believe, and then I will have a further motion.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 684 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

DISASTER SUPPLEMENTAL APPROPRIATIONS BILL

Mr. CONRAD. Mr. President, I would like to speak for one moment about the disaster supplemental bill.

It is fair to say that my State has been absolutely devastated by this extraordinary set of occurrences. First of all, the greatest snowfall in our State's history—over 10 feet of snow—followed in early April by the most severe winter storm in 50 years. Nearly 2 feet of snow fell in that one blizzard, accompanied by 70-mile-an-hour winds and an ice storm that brought down the electrical grid serving 80,000 people. That was followed by what we are now told was not the 500-year flood but the 1,000-year flood. That was coupled in Grand Forks with a fire that destroyed nearly three city blocks and was only contained because of the heroic efforts of the fire department in Grand Forks.

Mr. President, we have not had in this country a circumstance in which a town of the size of the city of Grand Forks with more than 50,000 people having been evacuated on a mandatory basis. Those people are not able to return to their homes for perhaps as long as a month.

This is a disaster of truly staggering proportion and dimension. Those people need help, and they need it now.

Mr. President, I know there are some who would like to attach amendments that are, in fact, extraneous to disaster relief to that legislation. I ask my colleagues to forbear the temptation to add extraneous matters to this disaster legislation. I know that some feel these amendments are not extraneous. In my own judgment, virtually all of these amendments that have been added have nothing to do with the immediate purpose of the legislation, which is to address the disasters that have been experienced in some 22 States—most recently the States of North Dakota, South Dakota and Minnesota. Some of these amendments really relate to the budget dispute of last year. We are going to have lots of opportunities for budget discussions. This disaster bill is not the time and is not the place for that to be.

The people who have been hurt deserve to be helped, just as we have helped other States impacted by disaster. Over and over, when we have had disaster bills, we have agreed, on a bipartisan basis, to withhold extraneous amendments. I have agreed to do it, even though I, too, have been tempted to offer things that I thought were critically important.

I hope my colleagues will extend that same courtesy to those of us who represent States that have been devastated in the most recent disasters. Our people deserve the same consideration and the same treatment that we have extended to others in similar circumstances.

Mr. DORGAN. Mr. President, will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. DORGAN. Mr. President, I will be very brief, for a question.

Senator CONRAD talks about the disasters that have precipitated the need for a disaster bill. As a member of the Appropriations Committee in the Senate, I participated yesterday in writing the bill that would come to the floor of the Senate next week.

Included in that legislation are amendments that have really nothing to do with the legislation at all, that are very controversial and could delay or impede the progress of this bill.

I join with my colleague to urge those who I know have other agendas and amendments, which I am sure are important to them, to decide not to offer them to this legislation.

I encourage those who have offered them in the Senate Appropriations Committee to take those amendments out of this bill and allow us to do what we need to do for the victims of these disasters—to extend a helping hand and say to those who have suffered so much that this country understands that you need help, that you are not alone, and this legislation and this Congress, by enacting this legislation, wants to do that and do it quickly.

The Senator from North Dakota, Senator CONRAD, makes a very important point. I associate myself with that point—that between now and next Tuesday, or Wednesday, when we take that legislation to the floor of the Senate, I hope very much that we will see those who have been adding and probably those who might want to add additional amendments to decide not to do that on this very important bill.

Mr. WELLSTONE. Will the Senator yield?

Mr. CONRAD. If I can follow up on Senator DORGAN's comments, then I would be happy to yield further.

Last night I accepted an award on behalf of the Grand Forks Fire Department for the extraordinary heroism they demonstrated when this fire was burning out of control and they were prevented from fighting that fire as they normally would by the flood waters. And yet they took on an extraordinary circumstance; with live wires in the floodwaters, they could not know, as they moved to rescue people who were in those buildings, if they would be electrocuted, and they went forward, they did their jobs, and they rescued more than 20 people. And because of their bravery not a single life was lost. We lost some buildings. We did not lose a single life.

Last night the Firefighters of America gave to me, on behalf of the Grand Forks Fire Department, an award. I might say those firefighters who risked their lives to save others were doing it at the very time their own homes were being destroyed. Forty-three of those firefighters had their homes destroyed while they were saving other people's lives.

I can tell you, those people are wondering, why is it when we have a disaster that impacts our area people want to put on amendments that have nothing to do with disaster relief? They cannot understand it. We did not do that when the shoe was on the other foot. When other States were hit by disaster, we did not offer other amendments. I hope that cooler heads would prevail here and that we would find other vehicles for Senators to offer their amendments that they believe are important but leave the disaster bill clean so the people who are trying to rebuild their lives from an extraordinary set of disasters have a chance to rebuild their lives. That is not too much to ask.

Mr. WELLSTONE. Will the Senator yield for a minute?

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I wish to proceed to the motion to proceed to S. 4. However, I would ask unanimous consent that the Senator DODD be allowed to talk for 2 minutes and 1 minute to——

Mr. CONRAD. Mr. President, I had not yielded the floor.

Mr. JEFFORDS. I believe the Senator gave up the floor.

Mr. CONRAD. No; I had not yielded the floor. I was yielding for a question from my colleague from Minnesota.

Mr. WELLSTONE. I will be brief. Minnesota is one of these States, too, and every day we come here and speak briefly because we just keep trying to pitch away.

Could I ask one question? I think the Senator recognizes I would rather give a statement. I will not. But is it not true that when you talk to people in North Dakota—I certainly find this to be the case in Minnesota—they just do not understand at all how it can be

that we just do not get this to them and how there can be this discussion of amendments having to do with budget cuts in education and budgets cuts in any number of other areas?

I say to the Senator, if I could get his attention for a moment, the most difficult thing for me is to try to explain to people how it could be we are at this impasse and that we cannot get the help to people as quickly as possible. In terms of how they live their own lives, people do not understand this kind of discussion about strategy and tactics and they feel as if we are just playing with their lives.

Does the Senator have trouble explaining to people why it is we cannot get this done for them?

Mr. CONRAD. I just say to my colleague by way of a quick answer that in Grand Forks two-thirds of the people are refugees. They cannot be in their own homes. They have been gone now for nearly 2 weeks. They still do not know in many parts of the city when they will return. And when they hear that there are amendments not related to disaster that are slowing down the disaster bill, they are just bewildered by what we are doing here. I must say there are times when I wonder what we are doing here. And again, I just hope that our colleagues would desist from offering amendments that are not disaster related to a disaster bill.

I thank the Chair and yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I will proceed on the motion to proceed but I would ask unanimous consent that the Senator from Connecticut be allowed to speak for 2 minutes out of order and that upon completion I be able to resume my management of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Connecticut.

DEBTBUSTERS BALANCING THE BUDGET

Mr. DODD. Mr. President, very briefly, I may not even take the 2 minutes. I just wanted to inform my colleagues that about a week ago, Congressman CHRIS SHAYS, of Connecticut, and I hosted a program called Debtbusters with a group of 200 of our constituents. We invited people to come together to sit down in groups and try to balance the Federal budget in 5 years. This is an exercise designed by the Concord Coalition, and it is the first time such an event has been done on a bipartisan basis. I highly recommend it to my colleagues.

It is a fascinating exercise to watch people act as Members of Congress over a period of 2 or 3 hours, faced with the choices that many of us have to make here in Washington as we work toward a balanced budget by the year 2002. It was a tremendously worthwhile exercise. I want to commend the Concord Coalition for organizing it, for putting together the questionnaire. It was not perfect. Anyone who writes questions and makes choices obviously is going to bring some bias to it. But overall I found it to be rather fair and interesting. I would also like to commend the citizens of Connecticut, specifically the citizens of Stamford and the surrounding area, for taking the time out of their weekends to come together and work in such a constructive spirit.

It was curious to see the choices that people made. People, when they sat down and had to work with six or seven or eight other people from their community with many different ideas and issues, were able to compromise and come to conclusions and even give up on things they cared about very, very much. It was instructive. It did not solve the budget problem. But last Saturday I was impressed that, on a gloriously sunny day, people came out and spent the 2 or 3 hours to try and resolve these issues. I thought my colleagues might find it interesting.

As we are about to hopefully reach some sort of budget agreement ourselves, I believe it is worthwhile to appreciate what average citizens are able to do, just as I said, in a few hours on a bright sunny Saturday morning.

Mr. President, I thank my colleague from Vermont for making the time available and I yield back any time I have.

The PRESIDING OFFICER. The Senator from Vermont.

FAMILY FRIENDLY WORKPLACE ACT—MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

Mr. JEFFORDS. Mr. President, we are now proceeding on the motion to proceed to S. 4, the Family Friendly Workplace Act. First of all, I wish to commend Senator DEWINE, who is the chairman of the subcommittee which very dexterously handled this bill in committee. I would also like to thank Senator ASHCROFT, the original author of the bill, who has done so much to bring, not only the attention of Congress to the problems we are addressing in the Family Friendly Workplace Act, but also helped and assisted in bringing the attention of this body to the problems that are created by the current law.

I am pleased to be on the floor of the Senate today for the opening debate on the motion to proceed to S. 4, the Family Friendly Workplace Act. I would also like to acknowledge the hard work of many other colleagues and the effort that went into S. 4 by the committee who was able to bring out a piece of legislation which I am confident will have the support of the Senate.

I am extremely excited about this legislation because I believe it will positively affect the lives of millions of Americans. Today, there are more working single parents and dual-income families in America than ever before. The Family Friendly Workplace Act represents an important step in providing employees in the private sector greater latitude to balance the conflicting demands of work and family. This legislation provides men and women working in the private sector the opportunity to voluntarily choose compensatory time off in lieu of overtime pay as well as to voluntarily participate in biweekly and flexible credit hour programs. It does so by giving employees the opportunity to choose to take paid leave time instead of cash compensation for overtime worked and to work out more flexible schedules with their employers if it suits their needs. These same options have been available to State, local and Federal employees for some time and they have been enormously popular with these public sector employees.

Mr. President, since this bill was first introduced, it has met with opposition. I believe the opposition stems from the political positions of big labor unions rather than the needs of working men and women. I imagine that S. 4's opponents are concerned, in part, because it is the first piece of legislation in nearly six decades that makes any significant modification to the Fair Labor Standards Act of 1938.

While I understand the concern of S. 4's opponents, I believe that it is misplaced. The Fair Labor Standards Act was, and still is, an important piece of legislation because it provided much needed protection to American workers at the time when their welfare was often disregarded, in the horrible period of the Depression. While the principles behind the Fair Labor Standards Act have not changed, its stringent provisions make it difficult to accommodate the needs of today's work force.

Since the enactment of the Fair Labor Standards Act in 1938, there have been considerable changes in our Nation's economy, labor market conditions and labor-management relations. One of the greatest transformations has been in the composition of the U.S. labor force. More women are working than ever before. According to the Bureau of Labor Statistics, women now account for 46 percent of the labor force. Between 1948 and 1995, women's labor participation rates almost doubled from 33 percent to 59 percent.

The increase of women in the workplace has had a significant impact on the day-to-day activities of the American family. The stay-at-home mom is now the exception rather than the rule. Indeed, in 1995, only 5.2 percent of all American families mirrored the traditional "Ozzie and Harriet" family

structure of a wage-earning father, a nonworking mother, and two children. According to the Bureau of Labor Statistics, 62 percent of two-parent families with children have both parents working outside the home.

The makeup of the American work force has changed dramatically, yet few provisions of the FSLA have been updated to reflect these changes. The needs of today's work force are different than the needs of the work force of the 1930's. Although employees are demanding more flexible work schedules and compensation packages, the FSLA and its underlying regulations preclude employers from complying with employee needs.

This need for a change in the existing law was exhibited in a recent poll conducted by Penn & Schoen for the Employment Policy Foundation. The poll indicates that 88 percent of all workers want more flexibility through scheduling and/or the choice of compensatory time. Another national poll revealed that 65 percent of Americans favored changes in the labor law that would allow for more flexible work schedules. It is not surprising that the private sector is demanding change. In a 1985 survey of Federal employees participating with flexible work schedules, 72 percent said that they had more flexibility to spend time with their families, and 74 percent said that having a flexible schedule had improved their morale.

Over the past several years, the committee has heard compelling testimony from workers about the difficulty of balancing work and family responsibilities. For example, Christine Korzendorfer, who works for TRW Systems in Fairfax, VA, testified that she works a lot of overtime hours. Her husband, who is self-employed, also works 7 days a week making caring for their two children a constant struggle. Ms. Korzendorfer said that while the overtime pay is important to her, having extra time off to be with her family is more important. She wants the choice to be able to take comp time off instead of overtime when it best fits her needs and her family's needs.

In addition, the committee heard from Sallie Larsen, vice president, Human Resources and Communication, TRW Systems Integration Group, about TRW employees' frustration with the rigidity of the current law. Ms. Larsen explained that it was important for her business unit to understand their employees' work patterns because the work patterns factored into how TRW bid for new work. To meet the needs of its employees, TRW saw an opportunity to add flexibility for all of its salaried employees and managers in its work scheduling. As a result, TRW invented a program called the Professional Work Schedule which gives salaried employees the ability to participate in 2-week flexing, partial-day time off and additional time off. However, the restrictions of the Fair Labor Standards Act prevented TRW from offering the program to its hourly employees. Ms. Larsen testified that TRW's hourly employees were amazed to learn that it is a 60-year-old law that is substantially unchanged since it was passed that stands in their way of becoming a full member of the team.

When the employees ask, "Why am I treated as a second-class citizen?" TRW explains, "It is the law, not the company's unwillingness to offer the professional work schedule to them."

As I mentioned earlier, employees in the public sector have had this option since 1985, and it has been very popular. Unlike in the public sector, however, S. 4 would prohibit employees from forcing workers to accept comp-time off instead of being paid overtime as a condition of employment. That is a change from the public law. In fact, under S. 4, an employee's participation in any flexible work arrangement would be totally voluntary. We have worked hard on the language since its introduction to make this crystal clear and to provide strong penalties against any employer who coerces, intimidates, or threatens a worker into accepting such an agreement.

This is true flexibility for workers and not the heavy hand of the employer. Providing families more flexibility in the workplace to help meet family needs should be a bipartisan goal. In the last year, President Clinton has acknowledged the importance of work force flexibility. For instance, in his recent State of the Union Address the President said, "We should pass flextime so workers can choose to be paid overtime in income, or trade it for time off to be with their families."

Because S. 4 will assist American workers to balance the needs of an evolving work environment and quality family time, I urge all my colleagues to join me in supporting this bill.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think, since this is the Ashcroft legislation, the Senator should be entitled to make the first statement on it.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I urge my colleagues to join us in moving to consideration of S. 4, the Family Friendly Workplace Act. It is an act which would help us accommodate the needs of families by recognizing that there are competing stresses. Most families feel two important stresses in their lives: One, the need to be with their families and to do for their families what their families require; the other is to provide resources, financial resources, for the family. These two stresses have put us in a unique condition, in terms of the way families operate. In the 1930's, when we enacted the Fair Labor Standards Act, it was clear that very few families found both parents as wage earners. As a matter of fact, in the 1930's, only one out of every six women with school-aged children worked outside the home.

We have seen these two stresses—the requirement to spend time with our family and the requirement to provide financial resources in order to support our family—drive both parents in many situations into the workplace so there is this tension that exists in the workplace. It is a tension that relates to how we accommodate our families at the same time we provide the financial resources for our families. That being the case, the sponsors of S. 4 sought to find a way that we could say to families: We understand how important it is to you to get the financial resources to support your children. We understand how much you need to spend time with your children. Finally, we want to say to American families that we understand how important it is that you spend time with your children without sacrificing the financial resources that your family needs. The solution—we thought it best to provide a way for people to be able to work flexible work schedules.

This is not a way for people to take a pay cut or to lose resources. We already have the Family and Medical Leave Act, which allows people to take a pay cut in order to meet a family emergency. But public policy in this country should not require American workers to take a pay cut in order to be a good mom or dad in this country. Most people have the understanding that they want to be able to both meet the financial needs of their family and meet the social needs that are attendant to being a mom or dad. That is what this bill would do.

This bill would simply allow flexible work schedules to be arranged, when the employee and the employer agree—when there is agreement on both parties—it cannot be a coerced agreement. The bill provides specifically, that if there is coercion—either direct or indirect coercion—that there are enhanced, heightened, and substantial penalties involved. Therefore, when there is a voluntary agreement between the employer and employee, the employee in overtime situations can opt to take time-and-a-half off instead of getting time-and-a-half pay. And, where there is an employee who does not get overtime work regularly, and that happens to be most of the hourly workers in the country—the vast majority of citizens do not get overtime work. In those settings, where an employee never has an opportunity to earn overtime compensation, there should be an opportunity for people to say to the boss, "If I work an extra hour this week, calling that flextime, can I take an hour off next week when my son or daughter is

going to get an award at the high school and I need to take an extended lunch hour? Can I take some time off next week if I need to go take a group of kids to the soccer game? I will work the hour this week."

Americans really are not aware that that is against the law for hourly workers right now. For an employer to trade with an employee an hour in 1 week, and say you can make it up in the next week, if the hour in the next week puts the person over 40 hours—it simply is illegal to make that up on an hour-for-hour basis. If you want to take the hour off this week and make it up next week, it is now a responsibility of the employer to make it up at a time-and-a-half basis. So you have to pay time and a half. Most employers cannot afford that, so they do not have that kind of flexible working arrangement. It is pretty clear to me that most Americans would like to have the opportunity to swap an hour, sometimes, one week for an hour the next week. Under this bill, if the employer asked, suggested, or even hinted that he wanted an employee to work over 40 hours in a week, the employee would be entitled to overtime pay. In order to bank hours on an hour-for-hour basis, the employee "initiate and request" the ability to work the additional hour.

So, there are a number of components of this bill, all of which are designed to relieve the stress of working families, all of which are designed to give Americans more time with their families. These provisions are designed to do it without forcing you to take the time off without pay. The real challenge we have in our culture is to continue to sustain our families financially but also to continue to sustain our families in their abilities to do the kinds of things they need to do together. What is important to note is that, in addition to the overtime provision, which can be compensated at time and a half, there is also the flex-time provision of the bill which attends to workers who are not normally able to get overtime work.

The Census Bureau collects data on a regular basis. Out of their data they collected in 1996, the data revealed that only 4 percent of working women who work on an hourly basis reported that they get regular overtime pay. It would be fine for those women if they could take that overtime and convert it to time-and-a-half off. But let's be serious. If we were only going to address the stresses and tensions that exist in the families of that 4 percent of the work force, we are not really going to do much to improve the lives of very many people. We need to be able to address this tension and this stress that exists in the work force generally. That is why it is important to offer the flex-time parts of this bill, which allow a person to say, "I will work an extra hour this week in return if the boss will let me take that hour off next week, or vice versa."

Those are the kinds of provisions that have been available in the public sector for the last 20 years. In 1978, sponsored by Congresswoman Ferraro, of New York, and Congresswoman Schroeder, of Colorado, we enacted the law in the Federal system which provided for flexibility in employment for Federal workers. The same provisions, which we now are offering before the Senate, ought to be extended to workers around the country in the private sector. What is interesting is that the system has worked so well at the Federal and local level. As a matter of fact, the General Accounting Office wanted to see what the impact of having these kind of work rules was on governmental performance, on morale of workers. When the General Accounting Office surveyed the workers they found out that workers approved or expressed their appreciation for this kind of working arrangement at a 10-to-1 ratio. So, for every 1 worker here who said, "I am not enthusiastic about this, I do not really care for it," 10 workers said they approved it.

Frankly, you cannot get that 10-to-1 ratio of workers to agree that today is Thursday afternoon. That is an overwhelming endorsement. That is a clear statement by workers, the workers themselves—union workers, nonunion workers—that this system works.

One of the features that is allowed in the Federal Government system that would be allowed and available in the private sector under this bill would be the ability of workers and their employers, upon the agreement and voluntary—voluntary consent of both parties, to schedule work over a 2-week period to average 40 hours a week. This was extremely popular in the Federal Government, because it allowed people to work 9 days in the 2-week period instead of 10 days in the 2-week period. Working 9 days in the 2-week period really meant that workers had every other Friday off, so they would work 8 days at 9 hours a day for 72 hours and then the ninth day they would work 8 hours. That took them to 80 hours. Then, with that in mind, having worked 80 hours in the 2-week period, 45 hours in the first 5 days and 35 hours in the next 4 days, those 2 weeks together constituted 80 hours. And each second week, Friday would be off.

The opportunity is apparent, here, in terms of the ability to spend time with your children; the ability to tend to things that can only be done during business hours. This is one of the reasons, when Federal employees are asked about the program, they endorse it overwhelmingly. It is one of the reasons why unions in the Federal arena insist on these provisions, these capacities, these flexibilities. It is one of the reasons why individuals in the work force ought to really have this opportunity in the private sector.

Having worked flawlessly for the last 20 years, increased productivity, built morale, and been endorsed by workers overwhelmingly, it is time for us to say to the work force generally: This is something you should have. Federal workers have it. It is time that ordinary workers in the private sector have it. I should not say "ordinary" because I do not want to suggest that the other workers are extraordinary. The point is, salaried workers have had flexibility for a long time. The boardroom has had flexibility for a long time. The guys who run the company never seem to have difficulty in being able to take time off to see their kids get an award, or even to play a game, or a round of golf, or perhaps link up with some of their friends at a predetermined time for a fishing trip or outing, or to even be volunteers, when it is necessary, to help their communities.

But the hourly individuals are the ones who have faced that challenge. Of course, the people who have felt the squeeze the most, I think, are the moms who have gone into the work force since the 1930's. There are 28.8 million working women who work by the hour in this country and it is time for us to say to them: You should be entitled to some of the same flexibility that people in the boardroom or at the head of the company or the salaried workers of America have had. It is time for us to say to them you should be entitled to some of the same opportunities to work with your family as the people who work for the Federal Government have had. It is time for us to say to them it would be appropriate for you to have the same capacity to volunteer and to help your children in their athletic activities, or academic activities, or extracurricular activities, as the people who work for State and local governments have had.

It is time to give the average worker in the United States of America, that individual who has served, working hard on an hourly basis, these same benefits that have been enjoyed by individuals who have worked on a salaried basis and have worked for the U.S. Government, for State governments, or for local governments.

Some individuals have indicated that perhaps it is enough for us to just address the issue of comptime. I would just suggest, because comptime is available only to workers who work overtime regularly, that we ought to think carefully about limiting the flexible working arrangements that we think ought to be available to American workers to those who are normally endowed with the right to work overtime.

Overtime is not the prerogative of most American workers. Estimates run as high as a third of the workers get regular overtime. The census clearly

indicated only 4 percent of the hourly workers who were women in 1996 said they got regular overtime.

What if you would triple that number from 4 percent to, say, 12 percent? You would still only have one woman working by the hour out of eight who received regular overtime. If we are going to provide flexibility to only one out of eight women, it seems to me we have missed the boat; or only two out of eight men, because twice as many men work in jobs that get overtime as women do.

If you take the universe of people who get overtime work, it is a 2-to-1 population in favor of men who have worked in the jobs that historically get overtime.

I do not think it is appropriate for us to try to limit what we do to individuals who have had the good fortune to find themselves in jobs where they would traditionally get overtime, especially when that means that it would only result in maybe one out of eight women in the work force working by the hour, having the flexible options, having the capacity to have an adjustable schedule the way people do in the boardroom, the way people do in State government, the way people do in the Federal Government.

I think it is time for us to say to America generally, "We understand it's tough to balance the competing demands of the homeplace and the workplace. We understand that when you take time off, you don't want to lose money doing so, because you wouldn't be working in the first place if you could afford to lose money by taking time off."

We need to say, "We understand you don't want to take a pay cut to be a good mom or dad."

We need to say, "We understand that you want to be a volunteer and you will need to have flexible working arrangements from time to time."

We want to build a framework that says to them, "If, indeed, those are your aspirations, here is the way you can accomplish them. At least you and your employer can together agree voluntarily that these kinds of things can be done."

I emphasize the word "voluntarily," because that is the way the bill would work. If there is coercion, either direct or indirect coercion, the bill provides for elevated, extraordinarily high penalties. It says, "If you are going to coerce workers, beware, you are going to have a doubling of the penalties you previously had in overtime settings."

Second, in order to provide a further incentive for employers, who are offering compensatory time off options, to not only allow employees to take the time when they need it but also to not see it as a cost savings, the bill provides that if an employee has chosen a comptime option, if at any time the employee changes their mind, the employee only has to say "Nope, I've changed my mind. I would like to have the money back instead of the time and a half off."

So, if someone had originally said, "I'll take time and a half off," thinking that would please the employer in some way, they can reverse that decision. In addition, if he believed he needed to accept the comptime, in lieu of financial compensation, it would be coercion and double current penalties could be assessed.

As an ultimate backup to make sure we don't have any abuse of the workers here, we have a situation built right into the structure of the bill so that at the end of the year, all the time and a half that is there as comptime is automatically paid as time and a half and at time-and-a-half rates.

So what we have here is a clear voluntary situation. You do not have any incentives for any employer to distort the voluntarism. You have employers who really understand that, if they can help employees be good parents, they are going to be better employees and, together, with a happier employer and happier employee, people are going to be able to meet the needs of their family without taking pay cuts. That it is a win-win situation. That is what we targeted. We built protections into the bill and structurally designed the bill, so that compensatory time can be converted quickly and efficiently. It is automatically converted if it is not used by the end of the year and we have provided elevated penalties in the event that there is a problem with any coercion, direct or indirect.

I might add as well, in the event the employer and employee in this measure do not agree to take time off as compensatory time, if there is no agreement on it, we fall back under the 1930's Fair Labor Standards Act. In other words, nothing is done to deprive any worker who wants to live under the terms and conditions of the law as it now exists from working under those conditions.

What we really have is an ability of the worker and the employer to choose to be more flexible and, if either one is dissatisfied, that choice is reflected in the continuation of the status quo: The 40-hour week continues to be in existence; the required payment of overtime at time and a half payment instead of time and a half off continues in existence. So the ultimate security for any worker is that the worker can choose to operate in the same framework of legal protection that worker has at this very time.

This is an attempt to say to the work force, "We know that you are stressed. We know that the demands of your house and the demands of your job are competing, and when they collide, if possible, we would like to give you the option of being able to work it out with your employer and to work it out in a framework of protections that are likely to result in your being able to succeed."

We are doing this, not with some program we have dreamed up, not with some novel, untested, untried set of opportunities. We are doing this with a program that has been in existence now since 1978, almost 20 years, in the Federal Government. We are doing this by proposing for the private sector the kind of flexible working arrangements which have been available in the public sector and which workers in the public sector have endorsed at a 10-to-1 ratio, which workers in the public sector, be they union workers or nonunion workers, are eager to continue, and when contracts are negotiated, there is an insistence that these kinds of provisions continue to be available.

I might just add one other thing about the President and his involvement. The President, in his campaign, called for "flexible work arrangements" for citizens. He used that very language. He used that language again in his State of the Union Message. He talked about "flexible working arrangements." When the President of the United States, President Clinton, came into office, he noticed that there was a small group of executive branch workers who didn't have the privileges that were accorded to the rest of the Government workers regarding flexible working arrangements and compensatory time. When the President made that observation, he did the right thing. The President said to the rest of the workers, "I'm going to extend the benefits of these kinds of working relationships by Executive order to you as Federal workers, because these are the kinds of things which will help you do a good job, they will help us get good work, and they will help you resolve the tension between your family and your workplace."

What was good for the President of the United States in his campaign, what he remarked on favorably in his remarks to the Congress, what he indicated was appropriate by way of Executive order, is good for the American people.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, the Republican leadership is pushing its so-called compensatory time bill, but a better name for it is the Paycheck Reduction Act. The bill has four fatal flaws:

First, it is a pay cut for large numbers of workers who don't deserve that harsh treatment from either Congress or their employers. The bill eliminates the guarantee of pay for overtime work for 65 million employees. The Republicans have openly admitted their pay-cut strategy. When the National Federation of Independent Businesses testified at the Senate Labor Committee hearing on the bill, they said "Small

businesses can't afford to pay overtime." That's why they support this legislation.

Vast numbers of today's workers depend on overtime pay to make ends meet. Half of those who earn overtime take home $16,000 a year or less. More than 80 percent earn under $28,000 a year. American workers cannot afford this Republican pay cut.

Second, the bill cuts other benefits. Health and retirement benefits are based on the number of hours worked by employees, and their benefits would be slashed too. Comptime hours do not count as hours worked, so employees will lost health coverage while they are working, and much-needed pension benefits after they retire.

Third, the proposal abolishes the 40-hour week. Employers could require employees to work up to 80 hours in a week without receiving overtime pay. A company could schedule a worker for 60 hours in 1 week, and 20 in the next, all without a penny of overtime pay. This isn't a family-friendly bill—it's a family-enemy bill.

Fourth, the bill provides no employee choice. The employer chooses who works overtime and when an employee can use comptime. The employer can assign all overtime work to employees who will accept comptime instead of overtime pay. Those who need overtime pay to make ends meet will no longer receive it. The bill also lets the employer decide when employees can use the comptime they have earned. If an employee wants to use comptime to take a child to the dentist, or attend a school play, the employer is free to deny the request.

If the Republicans are genuinely interested in helping working Americans deal with family needs, they should support expansion of the Family and Medical Leave Act. That law has been a resounding success since its enactment in 1993. It gives employees up to 12 weeks of unpaid leave a year to care for a newborn or newly-adopted child, or to deal with a serious medical condition of the employee or close relative.

Two proposals to expand the act are now under consideration in Congress. Senator DODD proposes to apply the law to all firms with 25 or more employees, instead of 50 or more employees under current law. This step would enable 15 million more workers to receive this important benefit. Senator MURRAY proposes to offer 24 hours of leave a year for employees to attend parent-teacher conferences and other school events.

Those who support genuine family-friendly policies know that the Family and Medical Leave Act works well for working families. I urge my colleagues to support its expansion and to reject the Republican comptime Trojan horse.

I know there is significant interest in the idea of legislation that would allow an employee to make a genuinely voluntary choice to be compensated for overtime work in time off rather than in pay. But, this is not that bill. Even those of you who support the concept of voluntary comptime should oppose S. 4. S. 4 contains four major provisions, each of which is designed not to help employees, but to allow employers to reduce the amount of money they must pay their workers.

This bill isn't meant to help employees juggle their work and family obligations. Instead, it is designed to help employers cut workers' wages. Forcing employees to accept time off instead of overtime pay is a cut.

While the legislation purports to let employees make the choice between overtime pay and comptime, it does not contain the protections which are necessary to ensure that employees are free to choose and are free from reprisal.

Under S. 4, it is the employer, not the employee, who decides what forms of comptime and flextime will be available at the workplace. There is no freedom of choice for the worker.

There is nothing in this bill which prevents an employer from discriminating against a worker who refuses to take comptime instead of overtime pay. Under S. 4, an employer could lawfully deny all overtime work to those employees who want to be paid and give overtime exclusively to workers who will accept comptime in lieu of pay. There is no freedom of choice for the worker.

The employee may want a particular day off so that she can accompany her child to a special school event or to a medical examination at the pediatrician. However, nothing in this legislation requires the employer to give the employee the day she requests. This bill gives the employer virtually unreviewable discretion to determine when a worker can use her accrued comptime. Here, too, there is no freedom of choice for the worker.

S. 4 contains much more than a badly flawed comptime provision. It contains a section entitled "Biweekly work program" which literally eliminates the 40-hour workweek. The bill substitutes a provision which would allow an employer to work his employees up to 80 hours in a single week without paying a cent of overtime. The employees would not even receive 1½ hours of comptime for each extra hour they worked.

The next new provision is entitled "Flexible credit hours." Under this provision, an employee who works hours that are in excess of the basic work requirement would no longer be entitled to overtime. Instead, the employee would get an equivalent amount of hours off at a later unspecified time. Under existing law, the employee would be paid time and a half for such excess hours. Under comptime, the employee would at least receive 1½ hours of time off for every excess hour worked. However, flexible credit hours purport to offer the employee a new, innovative alternative—work the excess hours but receive only 1 hour off for each excess hour worked. I cannot imagine how any employee could turn down an offer like that. Does anyone in this room honestly believe an employee who was not being coerced would choose to participate in such a plan?

The last feature of this bill appears on page 43. We haven't discussed it and I would urge each of you to take a closer look at it. It applies to salaried employees. Under current law, they do not receive overtime when they work extra hours and their pay cannot be deducted for an absence of less than a full day. S. 4 proposes to change that rule. Salaried employees would still receive no overtime but they could be subject to deductions in their pay if they were absent. In other words, the fact that they could have pay deducted if they missed 5 hours of work in a week can no longer be used to prove that they are hourly employees entitled to overtime if they work 5 hours extra another week. Is that fair? Is that enhancing worker's freedom of choice.

When you analyze what S. 4 would really do for American workers, it should be entitled "The Pay Reduction Act of 1997."

The essence of a genuine comptime bill is the creation of new options for employees, not employers. As you know, President Clinton has endorsed comptime legislation. However, even as a supporter of the principle of comptime, he has stated that he would be compelled to veto S. 4. A letter sent to this committee by the Acting Secretary of Labor at the direction of the White House sets forth the failings of this legislation clearly:

> Any comptime legislation must effectively and satisfactorily address three fundamental principles: real choice for employees; real protection against employer abuse; and preservation of basic worker rights, including the 40-hour work week. President Clinton will veto any bill that does not meet these fundamental principles.
>
> While the President has called for and strongly supports enactment of responsible comptime legislation, he will not sign any bill—including S. 4—that obliterates the principle of time-and-a-half for overtime or that destroys the 40-hour workweek. Workers—not employers—must be able to decide how best to meet the current needs of their family.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, my colleague from Minnesota indicated he was ready to proceed. Let me see if he is ready. For the moment, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. 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. WELLSTONE. Mr. President, I thank my colleague, Senator DEWINE, for his courtesy.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Anne Wilson, who is interning with us, be granted the privilege of the floor during this debate.

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

Mr. WELLSTONE. Mr. President, I will actually be relatively brief for now. We are going to have time for plenty of discussion and debate. In its present form—and I appreciate the words of my colleague from Missouri—this piece of legislation might better be called the Paycheck Reduction Act. I will just go over some bullet points and marshal evidence behind each.

Pay cut eliminates the guarantee of pay for overtime work for 65 million American workers. Mr. President, we passed the Fair Labor Standards Act over half a century ago. It was an important piece of legislation. It represented real progress for working families. The idea was that if you worked over a 40-hour week, you would get paid time and a half. That is an important principle. This piece of legislation essentially turns the clock back over a half a century. In a way it is a nonstarter for that reason alone.

Interestingly enough, we had an amendment when we were marking up the bill in committee which essentially said, at least don't give the employer all the power so that an employer is in a position to say to someone, Look, we will not give you time and a half compensation for overtime work. We will give you flextime. So the employer is in a situation to say to a worker, OK, you worked an hour over; we'll give you a flextime hour—that is hour to hour—but we won't offer flexible compensation at time and a half. That was voted down.

Benefits cut. Health and retirement benefits based on hours worked would be slashed.

Abolishes the 40-hour week. Employee could work up to 80 hours in a week without receiving overtime pay. That is just unbelievable. Everybody should understand this. This is a sacred principle. The reason we passed the Fair Labor Standards Act is that many employees, some the very employees Senator ASHCROFT was discussing, do not have a lot of clout vis-a-vis their employers.

The idea was to have some basic protection, so that if you were working hard to support a family and you worked overtime, you would get paid overtime. That assurance is abolished. Under this legislation, an employee could be working 50 or 60 hours a week or more and not get paid any overtime for that. To move away from the 40-hour week turns the clock back about a half a century.

Finally, No employee choice. Employer chooses who and when. Employer determines who works overtime and when an employee can use comp time. This is, in many ways, one of the most troubling features of this legislation. Please remember, and we had testimony in our subcommittee on this, there are companies that really work well with employees. They have good partnerships, and there are situations where an employee works 4 days a week, 10 hours a day and takes off Friday. That can be done now. You do not need to overturn the Fair Labor Standards Act. You do not need to overturn the 40-hour week. That can be done now.

Or what people can do is work 9 hours a day as opposed to 8 hours and then work half a day on a Friday or on a Monday. That can be done now within the existing framework of labor law.

Or people can go in at 7 and come home at 3 or come in at 10 and go home at 6. There are all sorts of flexible arrangements. Right now, employers can give their employees this flexibility if they so desire. The problem is, a lot of employers do not do that. But it has nothing to do with the basic principle of the 40-hour week, and the principle that if an employee works overtime, he or she should get time and a half pay. This legislation undercuts that.

Mr. President, that hardly represents a step forward for working people in this country. That is why, in its present form, this is the Paycheck Reduction Act. And that is why we are adamantly opposed to it. That is why most people in the country will be opposed to it when they learn all the provisions in the legislation.

This is my last point for today. Mr. President, what is interesting about this is it is all done in the name of choice. But you know, we had some interesting amendments in committee that speak to this question.

I offered an amendment which said we have a Family Medical Leave Act right now which says that there are up to 12 weeks of unpaid leave in the case of sickness of a child or an adult, so why don't we say this: If an employee has banked 10 hours of earned comp time, and she calls her employer and says, "Look, I need that time off because my child is sick," she gets it automatically. The employer does not get to shut her down and say no. If you want to give the employee choice, do not give all the power to the employers. But, Mr. President, that amendment was voted down.

We had another amendment which took some parts of the labor force—for example, garment workers—and said, we have a lot of people right now who, whatever the law of the land says, are not even getting paid minimum wage or earned overtime. We have a lot of examples of forced and unpaid overtime, and we have a whole backload of unfair labor practices. So couldn't we at least exempt some sectors of the work force where we know people are vulnerable and somewhat powerless and, as a matter of fact, have been exploited by some employers? Thank goodness most employers are not that way. But that amendment went down as well.

Mr. President, one other example. We had discussion where we said, wait a minute, we have this backload, we have all sorts of potential for abuse. Can't we at least have a commitment of resources so we have some enforcement?

You are going to need more people within the Department of Labor to enforce this to make sure that people are not forced to work overtime without overtime pay because no matter what you say in theory—about this being voluntary—the vast majority of people who work can tell you right now they do not always have a lot of choices. A whole lot of people put up with really awful working conditions. They put up with unsafe working conditions. They put up with situations that none of us would want to be in. But they do it to put food on the table. So couldn't we at least provide people with some protection? That is not here either.

Mr. President, with all due respect, this bill is hardly giving people more flexibility. That is the way it sounds at first blush. But what really is at issue here is you essentially overturn portions of the Fair Labor Standards Act, you overturn the 40-hour week, you put people in the situation where the employer—and in most situations the employer has the power—is going to say to people, "Hey, we're pleased to give you flextime," or, "We're pleased to give you an hour off, but it's hour for hour, even if you worked overtime. Even if you've banked hours, we're not going to give you time and a half compensation when you want and need it."

Let me tell you, the reason people work is because they need that pay to put food on the table. The reason you have so many families where both people work, both husband and wife, is because they need the income.

I do not think people are interested in seeing their paycheck cut. I do not think people are interested in being put in a situation where they no longer receive time-and-a-half overtime compensation. I do not think people are going to be pleased with a piece of legislation that abolishes the 40-hour week. And I do not think people are going to be pleased with a piece of legislation which sounds great in theory about employee choice, but does not have any of the provisions in it which would really guarantee that that would be a reality.

So, Mr. President, I have a budget meeting, and I apologize, because I like to debate with my colleague from Missouri. I promise him I will be on the

floor whenever we get back to this, to hear what he says and go back and forth—and with my good friend from Ohio. These two are my good friends. We do not always agree, but they are two Senators I really do like and respect. I feel badly about speaking and leaving, but only because we have this budget meeting right now. In any case, Mr. President, what I said was so compelling, what I said is irrefutable and irreducible, and I do not think they could possibly respond to it anyway.

Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I thank my colleague from Minnesota for the kind comments. I am sorry he is leaving, but he has an important mission on the Budget Committee. I have debated this issue on a number of different occasions in committee. But I must say that he is particularly eloquent today, because I do not even recognize this bill after he finished describing it. It is an entirely different bill than the bill I thought we passed out of committee. And I am sure many of the points that he raised today are going to be points of contention as this debate continues over the next few weeks.

Mr. President, let me first congratulate Senator ASHCROFT and Senator KAY BAILEY HUTCHISON for the great work that they have done to bring this bill to the floor today. In the House, my colleague from Ohio, Congresswoman DEBORAH PRYCE, has done tremendous work on this bill.

This is a bill that I am particularly proud to have been involved in to help bring to the floor today, because I think it will help bring the American workplace into the 21st century and, more importantly, bring the underlying labor law into the 21st century and make both more conducive, more understanding, to the changing nature of American society and of the American workplace, particularly of the American family and how people really live today.

In the hearings that we held in the Senate Labor and Human Resources Committee on this bill several months ago, we heard facts that substantiate the monumental changes that have taken place in American society in this century, particularly in the last 20 to 25 years, changes that make it absolutely essential that we pass this legislation.

Mr. President, today more than 60 percent of married women work outside their home; 75 percent of married women with school-aged children work outside the home; 75 percent of married couples with children have both spouses working.

We compare these statistics, Mr. President, to the situation in 1950: 11 percent in 1950—11 percent—of married mothers with children under the age of 6 worked outside the home. Today, almost 50 percent do—47 percent.

In less than half a century—in my lifetime—we have gone from around 10 percent of these mothers working outside the home to nearly half of them. This is truly a historic social change. I believe the sponsors of this bill in both the House and the Senate believe that it would be a good idea for the dynamics of the American workplace to finally catch up with the dynamics of our society.

It would be a good idea, Mr. President, for our laws to reflect the reality of how people live today. Put simply, Mr. President, there are more single parents and dual income families in our work force today than ever before, and their numbers are growing. In today's society, employees are faced with a difficult task of balancing their obligations to family, to spouse, to children, to work, school, other important things.

Mr. President, it is significant—it is significant—that for many years Federal, State, and local governments have enjoyed the statutory ability to offer their employees a flexible work schedule, thus allowing them an opportunity to spend more time with their families or more time to continue their education.

Mr. President, as our colleagues consider this bill, I ask them to consider how many times they have had a Federal employee, when they have been back to their State, come up to them and say, "I don't like this. I don't like the comptime. I don't like the flexibility that the law gives me today." They have had this, Federal workers have, for several decades. State employees have.

I was Lieutenant Governor of Ohio for 4 years. I do not recall one State employee ever coming up to me and saying, "I don't like the flexibility that we have." In fact, just the contrary. Everyone who has ever talked to me about it has said, "I enjoy it. I like it. It helps my family."

Mr. President, there are actually antiquated Federal laws which are still on the books that are preventing some of the necessary changes in the non-Government workplace. This is what this bill does. It sweeps away some of these old laws that prohibit workers from doing what they want to do.

Let us say, for example, a mother wants to take her daughter to a doctor's appointment. She wants to make up the working hours she missed by stacking them into other work days. Today, Federal law, written by Congress in 1938, says the employer cannot do that. The employer has to say to her, "No. I am prohibited by law from doing this. I want to do it. You want to do it. We are prohibited by law from doing it."

Mr. President, that simply does not make sense as we approach the next century. Workers in this country need more flexibility.

Mr. President, earlier this month the Senate Labor and Human Resources Committee passed this bill, a bill that would reduce some of the stress on America's working families by making the American workplace more family friendly.

As chairman of the Employment and Training Subcommittee, I handled this bill and we held several hearings. The hearings strengthened my conviction that this bill is long overdue.

Senator JEFFORDS, the chairman of the committee, was on the floor a few minutes ago and talked about Christine Korzendorfer, a woman, a mother of several children, who works at TRW. This is what she said, and I quote. She is talking about overtime pay. "Pay is important to me." That is important. "However, the time with my family is more important. If I had the choice,"—if I had the choice—"there are times when I would prefer to take comp time in lieu of overtime. What makes this idea appealing is that I would be able to choose what option best suits my situation."

Mr. President, that pretty well sums it up. Individual choice is really what this is all about. It is the Christine Korzendorfers of this country, the hard-working Americans, who know best what kind of work schedule fits their needs. Giving these workers the freedom of choice is the purpose of this legislation. The bill before us today, S. 4, the Family Friendly Workplace Act, will amend the Fair Labor Standards Act to finally provide employers and employees in the private sector with the same benefits public-sector employees have enjoyed for many, many years.

The bill contains three options for making the workplace more flexible—compensatory time off in lieu of monetary overtime pay, biweekly work schedules, and flexible credit hours.

Participation, Mr. President, is voluntary. Let me stress this again and again. You are going to hear this word from me throughout this debate. It is voluntary. No one has to do it. If the employee does not want to do it, the status quo prevails. The employer has to want to do it, the employee has to want to do it before this law really even kicks in.

Mr. President, I think that most people would be shocked if they knew that current law prohibits, absolutely prohibits, employees and employers from making the types of arrangements and agreements that people in the public sector can do today.

If that law was not in effect today, if that law did not prohibit that type of arrangement, do you think, Mr. President, Members of the Senate, that anyone would come to the Senate floor and offer a bill to do that? Would anyone come to the Senate floor and offer a

bill that said the Federal Government is going to step in and tell employees and tell workers in this country that, if you want to make an arrangement with the employer that allows you more flexibility in your life, that allows you to better decide when you are going to work, how you are going to work—does anybody think that bill would pass?

Does anybody think that the Federal Government, if it did not have that law in effect today, that we would want to put that law into effect? The answer obviously is no. I think it tells us something when we look at that answer and look at the question in that way. Such a bill obviously would never pass.

Mr. President, the Fair Labor Standards Act and its underlying regulations simply do not allow private-sector employers to meet the demands of their employees for more flexibility in various forms of compensation. As a result, working families are faced with tremendously difficult decisions.

For example, will a mother sacrifice hard-earned vacation time off to take her child to the doctor or to the hospital? Should she forgo the compensation to make sure her sick child is properly cared for? Should she try to run home for an hour here or 20 minutes there? Can a single parent afford to leave work early to attend a teacher conference, to help chaperone a class trip? Will a single parent ever find the time to pursue greatly needed continued education? These are the options that this bill will give.

I see, Mr. President, my colleague from Texas is on the floor. She has worked long and hard to bring this bill to the floor. I congratulate her for her great work. I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, thank you.

I want to thank Senators JEFFORDS and DEWINE and Senator ASHCROFT for their commitment to this bill. They have followed it through all the way from the beginning—Senator ASHCROFT, as the key sponsor, and Senators DEWINE and JEFFORDS, as the chairman of the subcommittee and full committee that shepherded this bill through because they believed so much in what this bill can do for the more than 60 million workers in this country, including 28 million women, who are paid by the hour.

I was just listening to what Senator DEWINE was saying, and I have to say, step back a minute and think about the fact that the Federal Government is saying to the hourly employees of this country, "You cannot go in and ask your employer to take off at 3 o'clock on Friday and work until 7 o'clock on Monday." You cannot do that because the Federal law says your employer cannot offer you that option. So if your child is playing in a soccer game or a football game on Friday afternoon at 3 o'clock, which many schools across our country do have in their schedules, you cannot go in and get that opportunity to see your child, because the Federal Government says you cannot do it.

Now, if you were a Federal employee you could do it because Federal employees have that option. If you are a salaried employee, you could do it. It is hourly employees who are not able to say, "I want to work two extra hours on Monday so I can take off at 3 o'clock on Friday."

Mr. President, all this bill does is give the same option to hourly employees that every Federal employee and every salaried employee has in our country. It is just amazing to me we did not do this years ago. It was only Senator ASHCROFT who came in and said, "Why have we not done this?" Many of us were not even fully aware of the impact our out of date labor laws were having on Americans' modern lifestyles.

What are our modern lifestyles? Mr. President, over two-thirds of the women who have school-age children in this country are working outside the home. When the Fair Labor Standards Act was passed, we had a lot of moms that could and that chose to stay home. Today, there are 58.2 million women in the workforce, and roughly half—28 million—are paid by the hour. The other half are salaried employees or self-employed. The biggest stress factor they have in their lives is the inability to find the time in the average day to do the things they need and want to do for themselves and their families. Working mothers and their children want to be able to share more of life's activities—to be able to go to the PTA meeting, the soccer game, the football game, and still be able to make a full-time salary and make ends meet at the end of the month.

The Family Friendly Workplace Act will enable those working mothers to do just that. Senator ASHCROFT and I have made sure that these people who are working hourly are not going to lose their salaries because they do have budgets. They have to meet the mortgage payment. They have to meet the car payment or the rent payment. They simply cannot afford to take time off without pay, as the President and some Members of Congress have called for.

That is the beauty of this bill. It allows the employee to be paid, while adding flexibility to their work week.

Another aspect that Americans like so much about this bill is it would allow an hourly employee to say, "I would like to work 9 hour days and take every other Friday off work, with pay." Federal employees have this option. Salaried employees have this flexibility.

Mr. President, I think it is important to keep in mind that these scheduling options are all voluntary. There is nothing that requires an employer or an employee to choose any of these options. If any employee is asked to work overtime, that employee keeps the right to say "Great, I want time-and-a-half pay," end of story. But if the employee says, "I want to take time-and-a-half in paid time off and not outright pay now," or "I would like to go ahead and work the extra hours and bank that time so that when my child's soccer game is scheduled" that employee will have that option, in cooperation with the employer.

And because this added flexibility and free time for employees has been proven to boost morale and improve productivity, giving hourly employees these added freedoms becomes a win-win situation for employee and employer alike. In short, this bill makes imminent sense. My only surprise is that we did not update this antiquated labor law earlier.

I commend Senator ASHCROFT, I commend Senator DEWINE, and I commend Senator JEFFORDS for helping us get this bill to the floor so that we will be able to finally say to the 28 million women that are hourly wage working women and the 30 million hourly wage working men in America, "You now have the same freedom to schedule time to spend with your loved ones that the rest of the workforce enjoys." For the Federal Government to stand in the way of those two individuals and say, "No, you cannot do this because Big Brother Federal Government in Washington said 30 years ago when there were not very many working moms in the workplace, in a whole different era, that you could not do it." Mr. President, we must enter in to the 1990's and update our labor laws to address the needs of the struggling hourly wage families in this country." We are going to let the marketplace work and we are going to take one source of stress off the hourly employee in this country who wants to spend time at home with their children, time catching up on errands, or just time relaxing with loved ones and friends.

That is what the Family Friendly Workplace Act does. That is why I am happy to be a cosponsor with Senator ASHCROFT, and give the 28 million women and 60 million working Americans in this country the same scheduling freedom that other employees in this country have had for years. Those Americans who work so hard day in and day out at their jobs, then have that extra burden of having to work when they come home. Most do not come home from work and sit in a chair and rest. They come home from work and they fix dinner for the kids, they fix lunch for school tomorrow, and then they do homework with the kids or whatever it is that has to be

done. Their day is not over at 5 o'clock. From time to time, they need to be able to take entire days or even weeks off from work. The Family Friendly Workplace Act will allow them to save up the hours to do that. Mr. President, we cannot give America's hardworking families any more than 24 hours in the day, but we can do the next best thing by enacting this important legislation.

I thank Senator DEWINE for yielding the floor. I hope we will be able to talk about this for a long time to come because if the Democrats are indeed going to filibuster and keep the Senate from responding to the needs of America's workers who overwhelming support this bill, then I am ready to talk for a long time. This bill means a lot to me and it will mean a lot to the families of our country. If we have to stand on our feet and talk for 2 weeks, count me in.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, let me congratulate my colleague from Texas for not only an excellent statement but for the tremendous work she has done, not just on this bill, but on many pieces of legislation that really reflect how American families live today.

Government, many times, has a hard time keeping up with changes in society. She has worked, for example, on the homemaker IRA bill, another bill that, again, tracks the changes in society and gives families flexibility to allow them to make adjustments in their life, to live their lives the way they want to live them. I congratulate her for her great work and look forward to working on this bill and continuing this debate in the future.

Mr. President, I think one of the points that my colleague from Texas made very well is that this bill—the current law discriminates against hourly workers. We have a situation today where two people can be working together, one is a salaried employee, the other is an hourly employee, and the hourly employee, really because of the way the law is written, because of a quirk of history, legislative history, the hourly employee does not have the same flexibility today that a salaried employee does. The salaried employee can make an arrangement with the employer to shift time, to be gone a Friday afternoon, to work extra some other time, that flexibility is not available to the hourly employee. That is discrimination. That is wrong. That is what this bill is aimed at rectifying.

Mr. President, it is also discrimination to say if you work for the Federal Government or if you work for local government, you have to follow one set of rules and you have many options as far as the time you work. But if you work in the private sector, the Federal Government says, "Oh, no, you do not have that flexibility." That is discrimination. Again, that is what this bill is designed to rectify, change, and stop that discrimination.

S. 4, the Family Friendly Workplace Act, Mr. President, will finally provide the flexibility that today's work force so desperately needs. The act will allow employers and employees to mutually agree, voluntarily, on whether an employee will receive overtime compensation in the form of the traditional time and a half—money; or, that same time and a half as compensatory time off. That choice this bill gives to that employee and that employer.

Employers and employees will be able to mutually agree to biweekly work schedules instead of the traditional workweek. Employers and employees will be able to mutually agree on the use of flexible credit hours. These choices will alleviate the pressures working women, single parents, constantly face today, Mr. President, in their attempt to balance the responsibilities at work with their obligations to their children, their obligations to their family.

The cornerstone to each of these options is this foundation of choice. It is voluntary. It is giving the employee one more tool. Mr. President, I and my colleagues are not alone in recognizing that our work force, our workplaces have changed.

We are not alone in understanding that the Fair Labor Standards Act passed many, many years ago no longer in this respect totally meets workers' needs. We are not alone in understanding that it is time for change.

A 1994 study by the Department of Labor stated that the primary concern of two-thirds of working women with children was the difficulty in balancing work and family. No surprise. A poll taken by Money magazine, just published in this May's issue, states, "Sixty-four percent of the public and 68 percent of women said that if they had a choice between taking cash or time off for working overtime they would definitely choose the time." Let me repeat that. Two-thirds said if they had a choice they would choose the time. It is a question of choice.

The point is, Mr. President, that current law does not give the average American worker—the person who is working in the private sector, the person who is working paid by the hour—does not give them per law that choice, and, in fact, prohibits employers and employees from making that choice; that determination. In that same poll, Mr. President, 82 percent said they would support the Family Friendly Workplace Act.

An article in the Cincinnati Enquirer read, "A little flexibility would be a godsend to good workers who also want to be good parents." The article went on to say, "It could benefit employers, too, who find it easier to recruit and retain productive workers."

An article in the Akron Beacon Journal quoted Ann Morris as saying very simply and for obvious reasons, "In the long run, my time is more important than the extra dollars."

Mr. President, furthermore, the President of our country, President Clinton, has stated on more than one occasion that he understands the need for more flexibility in the workplace and that he favors opportunities for workers, such as compensatory time in lieu of traditional overtime pay, flexible credit hours, and biweekly work schedules. This is what he said at the Democratic National Convention. I quote President Clinton. "We should pass a flextime law that allows employees to take overtime pay and money, or time off, depending on what is better for their family."

In describing his own initiative, this is what President Clinton said:

> This legislative proposal is vital to American workers—offering them a meaningful and flexible opportunity to balance successfully their work and family responsibilities. The legislation will offer workers more choice and flexibility in finding ways to earn the wages they need to support their families while also spending valuable time with their families.

Mr. President, these options have been on trial in the public sector. It is not as if we do not have a wealth of experience in this area. We do have years and years of experience, and thousands and thousands of employees who have benefited from this.

It is always instructive, I think, before Congress to act to look to see what experience we have. I think this has shown, Mr. President, that this is clearly what we need to do because the experience has been in fact good.

This is what President Clinton has to say about this. Let me quote:

> Broad use of flexible work arrangements to enable Federal employees to better balance their work and family responsibilities can increase employee effectiveness and job satisfaction while decreasing turnover rates and absenteeism.

That is the view our President expressed on July 11, 1994. The President recognized that people sometimes have to struggle very hard to balance the demands of work and families.

A couple of years after he made that earlier statement, the President went even further calling on all Federal agencies to develop a plan of action for better implementation of these flexible work schedules. Again I quote:

> I am directing all executive departments and agencies to review their personnel practices and develop a plan of action to utilize the flexible policies already in place . . . flexible hours that will enable employees to schedule their work and meet the needs of their families.

That is from a Presidential memorandum dated June 21, 1996.

Finally, in his State of the Union Address, this is what the President said. "We should pass flextime so workers can choose to be paid overtime and income, or trade it in for time off to be with their families."

This is a quote the Democratic Leadership Council:

Public policy should support two-parent families by giving them as much flexibility as possible to balance family and income needs. The tools and protection workers need in the information age are different from those required in the industrial era. The Fair Labor Standards Act needs to be modernized. Even with squeezed family budgets, for some workers time off may be as valuable as extra money.

Mr. President, this type of bipartisan support I think provides us with a remarkable opportunity. A Democratic President and Republican and Democratic leaders in Congress are united on an important national issue facing the American workplace. We may never have a better opportunity to pass this legislation.

For the sake of those Americans who are faced daily with the difficult challenge of deciding between their livelihood, their family, their employers, and the American work force as a whole, I urge swift passage of this bill.

I would like, Mr. President, to take just a moment—I am sorry my colleague from Minnesota is not here. He indicated that he was looking forward to continuing this debate. I know he will in the weeks ahead. He had to leave to attend a budget hearing. But I would like to briefly address several comments that he made when he talked about this bill. I rather jokingly, as he was leaving the floor, said to him that the bill he had described was not the bill that I thought we passed out of the committee. Let me explain to my colleagues.

He cited four problems that he saw with this bill. The first was he said it was a pay cut. He said that overtime should be sacred. Mr. President, he is absolutely right. Overtime should be sacred. Overtime is sacred in this bill.

What we are simply saying is that if an employee, because of his or her family situation, or for whatever reason, decides that they would rather take time and a half in time at some other date instead of money, they have the option to do that providing both the employee and employer want to do that. That is all it says. That is flexibility. That is allowing workers who work by the hour to get paid by the hour, to have the same rights Federal workers have, that State workers have, and the same rights that salaried employees have today.

So it preserves the concept of overtime, and time and a half. In fact, with that time and a half it gives it more flexibility. It gives certainly more potential value for the employee because it allows the employee to decide how to take that.

My colleague from Minnesota, Senator WELLSTONE, also said it cuts benefits. It is simply not true. We will have the opportunity to talk about this at length. There has been no evidence brought forward that shows this at all. The facts simply aren't there.

He also said that it abolishes the 40-hour work week. That is not true. It just isn't true. I ask what is wrong with an employee having the option to design his or her biweekly time with the consent of the employer, if they both want to do it? What is wrong with them designing the work week that says the employee will have every second Friday off? Maybe he or she wants to spend time with their family. Maybe they want to volunteer. Maybe they want to go fishing. Maybe they want to go hunting. It is not Government's business.

The current law prohibits employees and employers who do not work for the Federal Government and who work by the hour from being able to make that kind of an arrangement. Is that an attack on the 40-hour workweek? I don't think so. And I don't think the American worker thinks so either.

My colleague talked about enforcement. We listened to the testimony. We listened to the complaints that were made and the criticisms of the bill. And some of them, quite frankly, were justified. No bill is perfect, as it is introduced. We took those criticisms, and altered the bill to try to deal with the constructive criticism from the other side of the aisle.

This is a better bill as it comes to the floor, quite frankly, than it was when we started.

My colleague suggested that they certainly get credit for that. But the enforcement is there. The enforcement is there. It relies on the current enforcement of the Fair Labor Standards Act—enforcement that has been in place. The mechanism is there. And it provides very, very specific and tough penalties if, in fact, an employer in any way tries to coerce an employee, if they in any way try to abuse the privileges that are given employees and employers in this bill.

So I look forward, Mr. President, to having the opportunity to discuss this bill in the future.

I yield to my colleague from New York.

DISPOSITION OF LOOTED ARTWORK

Mr. D'AMATO. Mr. President, when the Banking Committee began the inquiry into Swiss banks, we had no idea where the trail would lead. We know that the Nazis had looted personal belongings of millions from all over Europe—gold, personal matters, bank accounts. But we really did not know how much help—I say "help"—that the Nazis had in disposing of this loot. We are beginning to get some idea. Now we have a better idea.

We know that Swiss banks facilitated the looting of gold from all over Europe. We know that the accounts of great numbers of Holocaust victims were never returned by Swiss banks to their heirs. But we also know that our Nation had similar problems. Other nations had similar problems and participated. France was one of them.

I am shocked to see a December 1995 report which I am holding here from the French Ministry of Justice.

Mr. President, this report details an audit of some of France's most prestigious museums and explains how these museums for over 50 years managed to hide their ownership of almost 2,000 works of art—1,955 works of art, to be precise, art that was looted from the victims of the Holocaust and deposited with these museums during the war, some of them sold on the so-called black market by the Nazis, who stripped Europe, who stripped individuals as they came through with their killing machine and sold the art or deposited it with these museums that knew they were not the true owners who were selling it to them.

Curator after curator cared more about the so-called, to use their words, sanctity of their collections, the museum's collections than for justice of the family from which art work was stolen. This is unconscionable for the museum to be saying, and I quote the museum in Versailles, the curator said, "Each and every one of these works has its proper place in our collections." Do not disturb them. It does not matter that they were stolen. It does not matter that it was their property.

The report also quotes a curator from the Musée d'Orsay as having said that a painting held in his collection by Gustave Courbet, the great painting of the Cliffs at Étretat After a Storm—and here is a photograph of that painting; it is one of the great masterpieces of the world—is one of the masterpieces that we would have to buy at a great price if we did not already have it.

Well, they may have it, but who does it rightfully belong to? Are we saying that the great art museums of the world, and particularly in France, have a right to keep this stolen art work?

Mr. President, this painting sits today in the Musée d'Orsay and the simple matter is that it does not belong to that museum. This painting, along with thousands of others and with other art objects in the French museums, should be immediately turned over to an independent authority to quickly establish its rightful ownership. The French Government has established a commission to study the problem but the true owners should not have to put up with the delays that go along with commissions like this. It has been 50 years, as the report states. The French museums have made little or no attempt to find either the heirs or the owners of these art works. These works have appeared in exhibits numerous times, have been in possession of the most prominent art museums in the world. The process of returning

these works of art must be put in the hands of a party that can search for true owners and do so without a worry whether or not they fit neatly into museum collections. After more than 50 years, it is time for justice. And just as we seek that proper accounting from the Swiss bankers, it is time that French museums do the same.

Mr. President, almost 3 weeks ago, I wrote to the French Ambassador, a letter dated April 8, which I will submit for the RECORD and ask unanimous consent that it be printed.

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

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, April 8, 1997.

His Excellency FRANCOIS BUJON DE L'ESTANG,
Ambassador, The French Embassy,
Washington, DC.

DEAR AMBASSADOR BUJON DE L'ESTANG: As you are probably aware the Senate Banking Committee, of which I chair, is currently conducting an investigation into the disposition of heirless assets belonging to victims of the Holocaust. One of the subjects of our investigation is the disposition of artwork looted by the Nazis during the Second World War. It is my understanding that there are currently 1,995 pieces of such artwork in storage in Paris. Could you please provide me with a descriptive list of this artwork. Additionally, could you inform me of the steps your country has taken to identify the rightful owners of these works of art and the numerous dormant French bank accounts belonging to victims of the Holocaust. Thank you for your cooperation in this very important matter.

Sincerely,

ALFONSE D'AMATO,
Chairman.

Mr. D'AMATO. My office has been in touch with the French Embassy and has been assured of their cooperation repeatedly. I told them I was going to come to the floor today. We called them. We were assured by the Ambassador's secretary, oh, yes, we are going to get you this information.

This is not a great secret. This Justice Ministry report again goes back to 1995. The quotes that I have given you come from this report in terms of the attitude of the museums.

So whether it is "Cliffs at Étretat" or whatever artwork it is that has been stolen and taken illegally, it is time now for a proper accounting. That is what we seek. We will continue to pursue this matter. I hope that the French Ambassador and the French Government would begin to work with us in accommodating justice.

I thank my friends. I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to proceed as if in morning business.

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

GROWING INTELLIGENCE BUDGETS

Mr. KERRY. Mr. President, recently our colleague, Senator MOYNIHAN, secured, or maybe not so recently, his FBI file, and it is interesting that in 1961, in a memorandum suggesting a meeting between himself and a then very youthful DANIEL PATRICK MOYNIHAN, J. Edgar Hoover wrote, "I am not going to see this skunk."

Now, the Senator from New York has been called many things, as we all have in the course of our careers, but after considerable amount of reflection I concluded that the only way in which this moniker could stick would clearly be in a way that J. Edgar Hoover did not intend, and that is that the distinguished Senator from New York has long and often been a skunk at the garden party of the intellectually comfortable, challenging our thinking about the status quo.

Most recently, he has brought this very considerable skunk-like presence to the matter of America's intelligence bureaucracy in the post-cold-war era. He has asked why it is that our vast intelligence apparatus, built to sustain America in the long twilight struggle of the cold war continues to grow at an exponential rate? Now that that struggle is over, why is it that our vast intelligence apparatus continues to grow even as Government resources for new and essential priorities fall far short of what is necessary? Why is it that our vast intelligence apparatus continues to roll on even as every other Government bureaucracy is subject to increasing scrutiny and, indeed, to reinvention?

Our colleague's answer is an important one for all of us to reflect on. The answer is secrecy and bureaucracy. It is secrecy that conceals structure, budgets, functions, and critical evaluation from the public, the executive branch and most Members of Congress, including those on appropriate oversight committees. It is bureaucracy, the nature of the self-perpetuating institution like any of our intelligence agencies, that leads to an ongoing redefinition of purpose and ongoing creation of redundant systems and ongoing expansion of scope.

The first component, secrecy, means that the normal active tools of democracy, that is, press scrutiny, public debate, and appropriate oversight from executive and the congressional branches, are absent. And the second component, bureaucracy, means that reform, downsizing, reorganization, and elimination of redundancies cannot come from within because, as the Senator from New York demonstrates, our intelligence apparatus is merely following the norms of all agencies.

This suggests that the intelligence bureaucracy will not, indeed cannot, change until we act on the cultural barriers to reform.

I ask unanimous consent that excerpts of the remarks of our colleague, the senior Senator from New York, at Georgetown University's Marvin H. Bernstein Lecture be printed in the RECORD. I commend this important commentary on the problems of bureaucracy and secrecy to all of my colleagues.

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

SECRECY AS GOVERNMENT REGULATION

(By Senator Daniel Patrick Moynihan)

Marver Bernstein was a scholar of great range and authority, but his primary work concerned government regulation, notably his celebrated editorship of Volume 400 of The Annals: The Government as Regulator. In that tradition, I would like to consider secrecy as a form of government regulation.

If at times my account appears more anecdotal than analytic, I plead that data is the plural of anecdote.

And so we begin of a morning early in January, 1993, when I paid a farewell call at the White House on George Bush, a fine friend and a fine President. As I was leaving the Oval Office, his redoubtable Chief of Staff James A. Baker, III ran into me, and asked if I might wait for him in his office until he had finished some business with the President. I went down the hall, was served coffee, and awaited his pleasure.

In time he returned to his office, went out, and came back with a small stack of what seemed like magazines. Baker wanted to show me what had become of the morning intelligence summary.That is to say, the National Intelligence Daily, or "NID", which the Central Intelligence Agency had begun back in 1951. It used to be ten or twelve pages long, plain cover, Top Secret. Some three hundred copies were printed. The real stuff, Baker now showed me half a dozen national intelligence dailies from half a dozen national intelligence agencies. Some had photographs on the cover, just like the Washington Post. Some were in color, just like the Washington Times. The Chief of Staff explained it was necessary for him to arrive at dawn to read them all, try to keep in mind what he had already read in the press or seen on television, and prepare a summary for POTUS. As Paul C. Light would have it, government had thickened and heightened; someone now had to summarize the summations.

I left musing about this. I had a passing acquaintance with public administration theory, having been patiently instructed by James Q. Wilson and Stephen Hess. I knew Anthony Downs. Had even spoken to Luther C. Gulick as he approached his 100th birthday in a hamlet on the banks of the St. Lawrence River. I was beginning to be familiar with the new "institutional sociologists" such as Paul DiMaggio, Walter Powell, Howard Aldrich. I had read with great profit the works of Suzanne Weaver and Robert A. Katzmann in the M.I.T. series on Regulatory Bureaucracy. And a common theme was emerging. To cite DiMaggio and Powell, "Organizations are still becoming more homogeneous and bureaucracy remains the common organizational form."

Light calls this "isomorphism," In a 1978 lecture drawing on Wilson, and through him on to the 19th century German sociologist Simmel, I had propounded "The Iron Law of Emulation." Organizations in conflict become like one another. (Simmel had noted that the Persians finally figured out it was best to have Greeks fight Greeks.) The

United States Constitution assumed conflict among the three branches of government; I traced conflict techniques among them ranging from office buildings to personal staffs to foreign travel. Now, however, one's attention was directed to conflict techniques employed by agencies within one branch, the Executive.

The intelligence community called out for attention. Perhaps it was the room I had just left, this southwest corner room in the White House. I was there on the early afternoon of November 22, 1963, awaiting news from Dallas. The door burst open; in rushed Hubert H. Humphrey. "What have they done to us?" he gasped. By "they" we all knew; the Texans, the reactionaries. Later in the day one learned a suspect had been arrested; associated with Fair Play for Cuba. At midnight I met the cabinet plane that had been halfway to Japan. I sought out the Treasury official in charge of the Secret Service. We must get custody of Oswald, I pleaded. Else he will never get out of that jail alive.

After Oswald was shot, I went round in the company of John Macy, head of the Civil Service Commission, pleading that an investigation had to look into the jaws of hell, else we would be living with a conspiracy theory the rest of our lives. I carried with me a recently reprinted book of the post-Civil War era which "proved" that the Jesuits assassinated Lincoln:

"Booth was nothing but the tool of the Jesuits. It was Rome who directed his arm, after corrupting his heart and damning his soul."

And, of course, today something like half of all Americans think the CIA was involved in the assassination of President Kennedy. There is even a Hollywood movie to prove it.

Nor can the historians disprove it. The records are sealed. We have an Assassination Records Review Board that lets some things out; not much. Recently, an eminent author wrote to tell me of a meeting with some CIA officials a few years ago in an effort to get some information on how the agency handled the aftermath of the assassination:

"Surely, I said, the agency has an interest in countering such a widely shared conspiracy theory with the truth. I got . . . blank stares."

In his classic study, The Torment of Secrecy, which appeared in 1956, Edward A. Shils defined secrecy as "the compulsory withholding of information, reinforced by the prospect of sanctions for disclosure." But secrets are disclosed all the time, and sanctions for disclosure are rare to the point of being nonexistent. (In the eighty years since the Espionage Act of 1917, only one person has been sent to prison simply for revealing a secret, as against passing material to a foreign power.) In 1995, I was asked to write an introduction to a paperback edition of Shils' work, and came up with the thought that secrecy is a form of government regulation. If this were so, we could look for the patterns those institutional sociologists keep coming up with.

Begin with Max Weber and his chapter, "Bureaucracy" in Wirschaft und Gescllschaft (Economy and Society), published after his death in 1920, but most likely written in part prior to World War I. He writes:

"Every bureaucracy seeks to increase the superiority of the professionally informed by keeping their knowledge and inventions secret. Bureaucratic administration always tends to be an administration of 'secret sessions' in so far as it can, it hides its knowledge and action from criticism.

"The pure interest of the bureaucracy in power, however, is efficacious far beyond those areas where purely functional interests make for secrecy. The concept of the 'official secret' is the specific invention of bureaucracy, and nothing is so fanatically defended by the bureaucracy as this attitude, which cannot be substantially justified beyond these specifically qualified areas. In facing a parliament, the bureaucracy, out of a sure power instinct, fights every attempt of the parliament to gain knowledge by means of its own experts or from interest groups. The so-called right of parliamentary investigation is one of the means by which parliament seeks such knowledge. Bureaucracy naturally welcomes a poorly informed and hence a powerless parliament—at least in so far as ignorance somehow agrees with the bureaucracy's interests."

The Federal Bureau of Investigation is nearest the "ideal type" of such a bureaucracy, and has the longest experience of the secrecy system that developed in the United States from the moment of our entry into the First World War and the enactment of the Espionage Act of 1917. The system began as a mode of defense against foreign subversion, frequently exploiting the divided loyalties of recent immigrants, and not infrequently stigmatizing an entire class of perfectly loyal citizens. This pattern persisted through the inter-war period, the Second World War, and onto the Cold War. From eminences such as Theodore Roosevelt who in 1917 sounded the warning against "the Hun within," on to the obscenities of the McCarthy era, down to the present when, if I do not mistake, Islamic Americans are going to find themselves under surveillance, as it were.

I offer this proposition. The attempts at subversion were real, but never of truly serious consequence. The one exception was the atomic espionage at Los Alamos. But even that was temporary. Soviet scientists would have developed an atom bomb on their own; as they did a hydrogen bomb. Espionage is intriguing, but data analysis is more rewarding. One thinks of the poster in the headquarters of the Internal Revenue Service. "It Took an Accountant to nail Al Capone." The problem is that in this, as in much else, the American public, and the Congress at time, were led to believe that it took the more secretive FBI.

It happens this is not true, but heaven help anyone who suggested otherwise at mid-century. Or such was my experience. As an aide to Governor Averell Harriman of New York in the 1950s. I became interested in the subject of organized crime after a State Trooper came upon an extraordinary assembly of mob leaders from around the nation that convened in the hamlet of Apalachin in the Southern Tier of New York. I became peripherally involved as a Senate staffer with Robert F. Kennedy, who was pursuing the subject. In July, 1961, I published an article in the Reporter magazine entitled, "The Private Government of Crime," in which I argued that from its roots in prohibition, which was a large scale manufacturing and marketing activity, that there was something that could reasonably be termed organized crime, that it was serious, and that we had not found a way of dealing with it. Why, I asked, did American government have so little success in dealing with this phenomenon? My general thesis was that there was insufficient organizational reward. Almost in passing, I noted that the FBI, which had "not hesitated to take on the toughest problems of national security . . . has successfully stayed away from organized crime." It got you nothing but institutional trouble.

By now I had joined the Kennedy administration as an aide to then-Secretary of Labor Arthur J. Goldberg. In a matter of weeks from the publication of the article, the Department of Labor building on Constitution Avenue was literally raided by G-Men. They hit the Secretary's floor in unison, went door to door, told everyone save the hapless author but including the Secretary himself, that a dangerous person had infiltrated their ranks with the clear implication that he should go. I can't demonstrate this but offer the judgment that at this time in Washington at any other department the person in question would have gone. Hoover had files on everyone, or so it was said. He and Allen Dulles at the CIA were JFK's first announced appointments, rather reappointments.

The Department of Labor was different only insofar as Arthur J. Goldberg was different. On August 2, C.D. "Deke" DeLoach had informed the Secretary that "it would appear to be impossible to deal with Moynihan on a liaison basis in view of his obvious biased opinion regarding the FBI." The Secretary called me in, said: "Pat, you have a problem. Go and explain your point of view to the Director." The next day, DeLoach agreed to see me, but made plain he could barely stand the sight. There is a three-page, single-space memorandum of the meeting in my FBI file, sent to the Director through John Mohr. It concluded:

"Moynihan is an egghead that talks in circles and constantly contradicts himself. He shifts about constantly in his chair and will not look you in the eye. He would be the first so-called "liberal" that would scream if the FBI overstepped its jurisdiction. He is obviously a phony intellectual that one minute will back down and the next minute strike while our back is turned. I think we made numerous points in our interview with him, however, this man is so much up on "cloud nine" it is doubtful that his ego will allow logical interpretation of remarks made by other people."

The Director appended a handwritten notation, "I am not going to see this skunk."

I survived: in part, I think, because the agency had no fall-back position. One raid had always done the trick; no Secretary ever asked that a 34-year-old get in to see the Director.

Organizational maintenance is nowhere more manifest, and at times ruinous, than in matters of national security. Hoover was present at this creation during the war hysteria of 1917 and 1918 and the anti-radical rumpus that followed, including Attorney General A. Mitchell Palmer's celebrated raids. The FBI was on to Communist activities fairly early on, and not about to cede territory. Richard Gid Powers has related the struggle with the Office of Strategic Services during World War II—Hoover wanted to go overseas. There were social tensions, as Powers records. "Oh So Social," for the Office of Strategic Services; "Foreign Born Irish," for the FBI.

However, there is another perspective, perhaps best evoked by the tale of British Foreign Secretary Ernest Bevin, sometime head of the Transport and General Workers Union, on his return from the 1945 Potsdam conference. What, he was asked, were the Soviets like? "Why," he replied, "they're just like the bloody Communists!" By contrast, it is quite possible that Harry S. Truman had never met a Communist until he sat down with Stalin at the same conference. Similarly, Hoover may never have met a Communist in his own circles. It was a matter of

regionalism, in what was then a much more regional nation. The clandestine activities of the Communist Party of the United States of America were common knowledge within political and intellectual circumstances of Manhattan in the 1930s. They were a given. Such urbanity, if that is not an offensive phrase, was unknown to the ward politics of Kansas City, and equally to the Protestant churches in young Hoover's Seward Square on Capitol Hill.

In this sense, it was as easy for Harry S. Truman to believe that there were no Communists in government as for J. Edgar Hoover to believe they were everywhere. Neither had any experience with a political community in which some persons were Communists, some had been, some had nuanced differences, some implacable hostility. The world, you might say, of Whittaker Chambers. Or, for that matter, the late Albert Shanker, President of the American Federation of Teachers. His February 1997 obituary records his struggle with Communists in the teachers' unions of New York City in the 1950's. Thus: "The anti-Communist Teachers Guild was a weak group of 2,400 members."

In the tumult and torment that followed World War II, it would appear that at first Hoover tried to "warn" Truman of suspected Communists in or about the American government. We have in the Truman Library a four-page letter of May 29, 1946, from the Director to George E. Allen, then head of the Reconstruction Finance Corporation, and a friend of the President, concerning "high Government officials operating an alleged espionage network in Washington, D.C., on behalf of the Soviet Government." Almost everyone of consequence was implicated. First of all, "Under Secretary of State Dean Acheson," "Former Assistant Secretary of War John J. McCloy," "Bureau of the Budget—Paul H. Appleby." It happens I had a slight acquaintance with McCloy, rather more with Acheson, and was close to Appleby. Anyone with the least sense of the Marxist mindset would instantly understand that such men lived in a wholly different world.

There now commenced a tragedy of large consequence and continued portent. On December 20, 1946, Meredith Gardner of the Army Signal Agency across the Potomac "broke" the first of the coded VENONA dispatches sent mainly by the KGB from New York to Moscow. It was dated December 2, 1944. There were names of the principal nuclear physicists working at Los Alamos. Treason most vile had indeed taken place, was still going on, was indeed occurring, even as Acheson and Newman and Marks and others worked at establishing some kind of international post-war regime to control the bomb. They knew well enough that the bomb would not remain a secret long. Science does not keep secrets. But they did not know that the Soviets had got hold of our plans, and in consequence, would get their own bomb two to three years sooner than otherwise, and hence would want no part of an international regime.

They did not know because J. Edgar Hoover did not tell them.

Army Signals decrypted the cables, leaving it to the FBI to identify the individuals designated by code words. Julius Rosenberg was LIBERAL. Another atomic spy, the 19-year-old Harvard graduate Theodore A. Hall, was MLAD (Russian for "youngster").

The National Security Agency has now made public the VENONA decryptions. We never broke more than perhaps 10 percent of the traffic, such is the impenetrability of one-time pads. But all of a sudden, in 1995, the American public learned what we had known.

The awful truth, however, is that when the President of the United States needed to know this, which is to say Harry S Truman, he was not told.

As best we know, and we never will know until the FBI opens its own files, President Truman was never told of VENONA. Nor it would appear, was Attorney General Tom Clark.

The consequences for American foreign policy were almost wholly negative. The realism about the Soviet Union exemplified by George Kennan, and embodied in the policies of such as Acheson and McCloy, gave way to an agitated anxiety, rhetorically on the part of Republicans, but as a matter of practice and policy on the part of Democrats. A realist view would have seen the Soviet Union as an absurdly overextended colonial colossus which would collapse one day, essentially along ethnic lines. (What, after all, had happened to the other European empires in the second half of the 20th century!) Instead, Democrats, launched an invasion of Cuba, bringing the world close to a nuclear exchange, and leaving an absurd problem with us to this day. Off we went to Vietnam, quite oblivious to the Russian-Chinese hostilities that broke out at the same time. And so on. In 1974, Donald L. Robinson described this as "The Routinization of Crisis Government." After all, regulatory regimes seek routine!

Part of this disorder may be ascribed to the development of a vast culture of secrecy within the American government which hugely interfered with the free flow of information. The Central Intelligence Agency came into being, rather to the annoyance of the FBI which was slow to cooperate with it. (For that matter, it was not until 1952 that the Pentagon felt comfortable enough with the CIA to share the VENONA decryptions.) Scientists such as Frederick Seitz protested secrecy, but with small success. The problem was that the secrecy was secret. No one knew what was in the NID. And so matters of large import were never really debated.

The most important area was that of the Soviet economy. From the mid-1960s on, the intelligence community perceived the Soviets growing at a considerably greater rate than the United States. Inevitably, a "crossover" point would come when the GDP of the USSR would exceed that of the United States. In fairness, in the early years there were outside economists who seemed to agree, notably Samuelson. But this fell off. In the summer of 1990, Michael J. Boskin, then-chairman of the Council of Economic Advisers, testified before the Senate Foreign Relations Committee on this matter. He estimated that Soviet GNP came to "only about one-third of the GNP of the U.S." He volunteered that "as recently as a few years ago, the CIA estimates were at 51 percent." In a question, I noted that the highest published figure was 59%, but that the secret estimates were even higher. It is hard not to conclude that the Agency had simply acquired an institutional interest in the view that the Soviets were gaining on us. We will debate for some time—say a century—whether the arms build-up, begun by President Carter in the Cold War mode, but continued for some time by President Reagan, somehow "bankrupted" the Soviet Union. But the Cold War did end, and the West did prevail. There cannot be too much fault to be found with this outcome. But surely there are lessons.

The first lesson is that a culture of secrecy kept the nation from learning the extent of Communist subversion in the 1930s and 1940s. (Subversion was present from the first. John Reed was a paid Soviet agent. But it didn't much matter until World War II came in sight.) Unlike the anti-German hysteria of the First World War, and the anti-Japanese hysteria of the Second, concern with Communist subversion from the 1930s into the Cold War was entirely appropriate. Even so, the Soviet success was limited, and was waning by the time we began to be aware of it. (The Soviet threat was another matter; an adversary with nuclear weapons, comething wholly new to the human condition.) "The American visage began to cloud over," Shils wrote:

"Secrets were to become our chief reliance just when it was becoming more and more evident that the Soviet Union had long maintained an active apparatus for espionage in the United States. For a country which had never previously thought of itself as an object of systematic espionage by foreign powers, it was unsettling."

The larger society, Shils continued, was "facing an unprecedented threat to its continuance." In these circumstances, "The phantasies of apocalyptic visionaries now claimed the respectability of being a reasonable interpretation of the real situation." A culture of secrecy took hold within American government which abetted a form of threat analysis which led to all manner of misadventure.

The permanent crisis perceived in Washington was surely overdone.

I offer what follows somewhat as conjecture, but with a measure of conviction. The Soviet Union never intended to invade Western Europe, or generally speaking, engage in a third World War with the West. The leaders in Moscow were, for a while there at least, Marxist-Leninists. That doctrine decreed that class revolution would come regardless. It had been hoped for in 1919–20, again in 1945–48. It hadn't occurred, but it surely would. In the meantime, build socialists at home. Early in the Cold War the United States developed surveillance techniques, beginning with the U–2 "spy plane" and leading on to satellite imagery of today's National Reconnaissance Office.

I conjecture that this technology, and associated underwater devices, gave us first of all the security of knowing we would get a heads up on any serious Soviet preparations for an attack. Not, perhaps, a spasmodic nuclear strike by a crazed commander but anything approaching mobilization of the sort that said to have triggered World War I. (Once one side starts, the other must start, else a five-day advantage prove decisive, etc., etc.)

Similarly, in time, the Soviets had their own satellites: could track NATO forces, the various U.S. Fleets, our bombers and so forth. We never planned to invade the Soviet Union. We were obsessive about the Western Hemisphere: nothing new since Monroe's time. And seemingly incapable of understanding that when an idea dies in Madrid, it takes two generations for word to reach Managua. But never warlike as regards the Soviet Union itself.

A second lesson is less sanguine. The Cold War has bequeathed us a vast secrecy system, which shows no sign of receding. It has become our characteristic mode of governance in the Executive Branch. Intelligence agencies have proliferated; budgets continue to grow, even as the military subsides. Every day we learn of some new anomaly. As, for example, the Commerce Department employee who took his Top Secret clearance

with him to the Democratic National Committee. (Look for the day when it is a mark of institutional prestige to have an honest-to-goodness spy discovered within one's ranks!) In 1995, there were 21,871 "original" Top Secret designations and 374,244 "derivative" designations. Madness.

In the meantime, as old missions fade, the various intelligence agencies seek new ones.

This has been painful to observe. I cannot say I could wish for the return of J. Edgar Hoover, as he thought I was a skunk. But someone needs to learn from Hoover's caution about taking on problematic missions. For example, keep the CIA out of drug trafficking. Stick to terrorism and weapons technology, including, of course, biological weapons. Same for most of the other agencies that now fill up our embassies, turning our ambassadors into room clerks.

And so to sum up. The twentieth century saw the rise of the administrative state. Government regulation has become the norm. However, we have developed not one, but two regulatory regimes. The first is public regulation for which we developed all manner of disclosure, discovery, and due process. This regime is under constant scrutiny. Thus, the 104th Congress enacted the Congressional Review Act which establishes a sweeping procedure whereby Congress, with Presidential approval, can nullify regulations.

There is, however, a second regulatory regime concealed within a vast bureaucratic complex. There is some Congressional oversight: some Presidential control. Do not overestimate either. Not that the public is excluded altogether, save as bureaucracies or bureaucrats think it to their advantage to make some things pubic. As, for example, it being budget time, we find on the front pages the report that:

"The Central Intelligence Agency has severed its ties to about 100 foreign agents because they committed murder, torture and other crimes. . . ."

This is surely a welcome development. Although it could be asked why in the first instance public monies were disbursed to murderers, torturers and sundry criminals.

This second regime is in need of radical change. We have sensed this for some time. But I now submit that change will only come if we recognize it as a bureaucratic regime with recognizable and predictable patterns of self-perpetuation which will never respond to mere episodic indignation.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I yield such time as he may need to the sponsor of the bill, the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

FAMILY FRIENDLY WORKPLACE ACT—MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

Mr. ASHCROFT. Mr. President, I thank you for this opportunity to spend a few more minutes helping those watching understand exactly what significant opportunities we are talking about with the Family Friendly Workplace Act. It is our effort to try to give to people who are on hourly working arrangements the ability to develop flexible working schedules—to do it in the same way as has been possible for Federal workers so situated for the last—well, during the 1970's, 1980's and into this decade of the 1990's.

The attempt to offer the ability to work flexible schedules is a result of people feeling the stress of the job that tugs them away from their families. In order to understand the true nature of workers' stress and the benefit they would gain from flexible work schedules, I would like to read some letters that have been sent to our office. Here is a letter that says:

DEAR SENATOR ASHCROFT. I'm a 29-year-old working mother. I have a 2-year-old daughter and am pregnant and due in November. I recently heard about your Family Friendly Workplace Act. Under current law where I work does not allow me to have a flexible work schedule. They are not allowed by the law to let us work less than 40 hours one week and then more than 40 hours the next. In my current condition, I need to be able to take off for doctors' appointments. Due to the fact that I have a complication in my pregnancy, I have more appointments than average. If I was able to take off more one week and work more the next, it would be very helpful to me and other mothers in Missouri.

That is perfectly stated. Here is another letter:

My 2-year-old daughter is healthy but there are some days she needs extra attention and some days that she is sick. Some days she is just 2.

Meaning the terrible 2's, I suppose.

If I was able to take time I need for some mornings and to make it up at lunch or the next week, it would make my life much easier.

Here is another letter:

It's been a struggle for me to be able to arrange for doctor appointments, be home when my child is ill and my three children are always sick at different times. Or when my babysitter has been unable to take my children because of illness. Not all of us have spouses or family members who can fill in for us or when we need to be there for our children. My husband works out of town on many occasions and is unable always to be around when needed.

Working parents are not asking for special favors, just a way to be able to meet the demands of both our jobs and families. The Family Friendly Workplace Act would help solve the problem of inflexibility in the workplace. Being able to arrange biweekly work schedules would be very helpful in meeting the needs of our families. I would be able to take the time off for doctors' appointments or to leave a couple hours early one day if the babysitter calls to tell me my child has a fever. Being able to make that time up the next week would certainly take off a lot of the pressure and the stress of taking these last few hours of leave time or potentially being on leave without pay.

Here is an individual working because they need the money. When a little crisis arises, because flextime is not available, they have to leave the office without pay. She goes on to say:

The option of taking compensatory time in lieu of monetary compensation would also be very valuable to working parents who just need the time off.

Here is another.

Presently I enjoy flexible schedules. The extra day off [I have] during the week allows me to spend one-on-one quality time with my 5-year old daughter. She will start kindergarten this fall, which makes these girls-only days especially meaningful for both of us. Additionally, I can schedule many doctors' appointments as well as other appointments for me and my children on this day off. This allows me to save my accrued sick or vacation leave for a time when I really need the sick leave or can take a well planned family vacation.

As a supervisor, I currently have the flexibility in my schedule from week to week. However, my staff are not given the same opportunity, although many of them would be able to utilize and benefit from it.

Kind of interesting to me. Here is the supervisor that has the flex capacity, says that the staff ought to have the same thing. This is really the crux of what we are talking about in this bill.

My staff are not given this same opportunity although many of them would be able to utilize and benefit from it.

She says:

I am reluctant to exercise this advantage, however, of mine because it seems unfair to me that I have something that my employees do not. I understand that this bill would require that this opportunity be afforded to all employees, not just those in management or supervisory positions.

Here is another letter from a constituent:

Time with my children is very important and, unfortunately, working outside the home is important, too. My children will only be young once, and missing parts of their development is a very important part that I can never replace. I would like to better balance my family life and my work life. And I think the Family Friendly Workplace Act is an excellent opportunity for working parents.

Here is a letter from a schoolteacher:

I ask that you support the bill as I think it would be a great benefit to all citizens in this country. As an educator, I feel that this would allow parents time to be in school with their children. Time and time again, parents relate to me that they cannot come to school for conferences or other meetings because they have to work. This bill would allow some flexibility in the workplace.

Another letter. I think this letter is very interesting. This writer used to be a Federal employee and is now working in the private sector. The individual writes:

I have worked in the Federal Government with a flexible schedule based on 80 hours and enjoyed it."

That means you work an average of 80 hours over 2 weeks.

Now that I have left the Federal work force, I have questioned why this same opportunity is not available to me in the private sector. As an American, this disappoints me greatly. The Government does not have enough confidence in me to allow me to make a decision to not take overtime pay if I exceed 40 hours a week. By pretending to protect me, they have hurt me. My company cannot pay me overtime, so I

cannot take time off next week. I would like to see the same benefits that Federal workers have, be offered to the private sector.

Another example is the vacation time,

the writer goes on to say:

What I receive in industry isn't near that what the Federal Government provides. Three-day weekends were great while they lasted—even 4-day weekends allowed the family to get away for a short trip, which is about all we can ever afford anyhow, and I still have discretionary time for kids, doctor visits, and other needs.

Here is a letter from a schoolteacher:

As an elementary teacher I feel parents need to have time off to help in their child's classroom and attend conferences. The children have the real benefit of this bill, if it passes, because they will know that their parents really do care about them and their progress in school.

We will have an opportunity to debate and discuss this matter fully. I thank the majority leader, TRENT LOTT, for allowing us to have this time this afternoon to bring this bill forward. It is pretty clear that the supplemental appropriations will take precedence over this bill when we reconvene next week and that budget matters will have priority and be the subject of our deliberations. But, because this measure was the next measure to come up after those come before us, the majority leader let us have a start on this important issue this afternoon.

I look forward to the time when these other measures—which are very important and require our attention—will have been settled and we can get back to this all-important issue of allowing workers to have the flexibility to spend time with their families. It is as important as ever to allow workers in the private sector who are paid hourly wages to have the same benefits that Federal Government workers have had since 1978.

So I thank the majority leader for giving us the opportunity to begin this bill now. It will be necessary for us to bring the bill down so we can proceed to other matters. I close by thanking my good friends who have helped in this measure. Perhaps the most responsible for the significant progress we have made is Senator DEWINE of Ohio, in whose subcommittee this bill was heard and whose leadership has resulted in it being one of the first pieces of major legislation brought to the floor during this session of the Congress.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. STEVENS). The Senator from Ohio.

Mr. DEWINE. Mr. President, let me thank my colleague from Missouri for the excellent statement and explanation about his bill and also congratulate him for bringing this bill to the floor. As he stated, we knew as we began the debate today that we would only just get started and that, because of concerns about the budget and other scheduling matters on the floor, we would have to ask to have this bill pulled down temporarily. We will be back on this bill. It is a very important bill to American workers. It is a question of fairness. It is a question of equity. It is a question of really trying to bring our laws up to date to reflect the reality of how people live their lives today, the reality of the American workplace.

It is a bill about eliminating discrimination. The current law, frankly, as we talked about it, does in fact discriminate against hourly workers who are in the private sector who do not have the benefit of working for the Federal Government.

So, at this point I do ask unanimous consent to withdraw the motion to proceed.

The PRESIDING OFFICER. Without objection the motion is withdrawn.

MORNING BUSINESS

Mr. DEWINE. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 5 minutes each.

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

NOTICE

Financial Disclosure Reports required by the Ethics in Government Act of 1978, as amended and Senate rule 34 must be filed no later than close of business on Thursday, May 15, 1997. The reports must be filed with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510. The Public Records Office will be open from 8 a.m. until 6 p.m. to accept these filings, and will provide written receipts for Senators' reports. Staff members may obtain written receipts upon request. Any written request for an extension should be directed to the Select Committee on Ethics, 220 Hart Building, Washington, DC 20510.

All Senators' reports will be made available simultaneously on Friday, June 13. Any questions regarding the availability of reports should be directed to the Public Records Office. Questions regarding interpretation of the Ethics in Government Act of 1978 should be directed to the Select Committee on Ethics.

THE CULTURAL DECLINE IN AMERICA

Mr. BROWNBACK. Mr. President, I would like to make a few remarks in morning business. Today, as most people recognize, is a national day for prayer. We have also been talking about a very important thing regarding families and a bill that has been put forward to try to help families be able to do their job better.

What I would like to speak about a little bit today is building off of that statement and also off the National Day of Prayer to talk about, overall, the culture of America and what has happened to our Nation, what has happened in our culture. I think it probably would come as no surprise, unfortunately, to most people that our culture is in difficulty and has been having a great deal of problems lately.

I have been looking at and studying this issue for some period of time. Plus, as I travel across my State, as I travel across Kansas, I hear more and more people mentioning how much difficulty they think the culture is in, how much they feel like they are fighting culture just to raise their kids and raise their families. I would like to take the Senate's time for just a few minutes to describe where are we today in this culture. Why do we need things like flexibility for families to be able to be families again? Why do we need to do those things?

Let us look at some of these charts. I apologize ahead of time for how discouraging they are, because they are. As you look at these things—look at this. This is child abuse and neglect reports in America. We are talking, in 1976, about 500,000 of them, which was a lot at that point in time. But consider where we are today: 3 million in 1995 reported, of child abuse and neglect cases reported on an annual basis, 3 million. That is a high percentage of our children being recorded in this. This is a terrible situation and, unfortunately, an indictment of the culture.

Let us look at out-of-wedlock births. This is something that has received a lot of attention overall in our society. Consider where we were in 1960—about 5 percent. And you can go back earlier in time and it stays at about this 3 to 5 percent level. Consider where we are today—30 percent. About one in every three children born in America today is born to a single mom. That is a tough situation. In our inner cities—in the District of Columbia we have here, that figure gets up to nearly 60 to 70 percent.

My wife and I have three children. It is tough enough for two of us to raise them, let alone without flexible time to be able to get off from work, and let alone without being born into a situation where you start out with one parent just at the very outset.

The next chart, violent crimes taking place in our society. Unfortunately, I think everybody knows the situation here, but look at the staggering numbers—staggering numbers. In 1960, we are talking about violent crime offenses—rape per 100,000, we had about between 100 to 200 per 100,000 citizens in the country in 1960. Look at where we are today. We are up at nearly 800 per 100,000 people. Look at that period of time, 1960 to 1993, 33 years, and we go up nearly sevenfold in violent crimes, sevenfold.

My own staff here in Washington, DC, and I have only been here now 4 months, three of them have been burglarized, my own staff here in Washington, DC. This is across the country what is taking place. This is just a horrendous number, if you look at that.

Take a look at this. This one is sad, about the hopelessness of some of our kids in this society. Just think about the concept even of a teenager, somebody who is just looking at getting into life and into what should be the flowering, the spring of his or her life, committing suicide; having, actually, the mental thought that I should end this life. To me that is just—it is almost unthinkable, anyway; abhorrent. What has happened in our culture? These are again per 100,000. We used to have about 3 in 1960. We are up to nearly 12; quadrupled in a 35-year time period, of teens being hopeless. How much more do they reflect the rest of teenagers who have thought about this and decide, well, I am not willing to quite take that step? It has quadrupled in 35 years, in the state of our society.

What about marriages ending in divorce? Do not hear me to say I am perfect or my family is perfect. We have had divorces in our family, too, just like every family in America. But look at the numbers, because they are staggering; they really are. In 1920, about 10 or 11 percent of marriages ended in divorce. Where are we today? Nearly 50 percent; nearly 50 percent. And it affects all families everywhere. It affects my family, too. Look at that.

What does it lead to overall? This is a chart of a Fordham University study on the culture. They have tracked the culture in America since 1970, and they use a whole set of different factors, some of which I would not consider; in others, I would add additional factors. But they overall said the culture, in their objective assessment, has declined from, in 1970, a 73 percent objective number to a 38 percent objective number—in half, the cultural decline in America, in a period—look at the time period we are talking about here—25 years. Is this incredible?

I think on our National Day of Prayer we ought to be praying about the culture. And we ought to be thinking about what we can do ourselves and what we can do corporately in this society.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

A SIGNIFICANT ACCOMPLISHMENT

Mr. STEVENS. Mr. President, there are times when I listen to the remarks of another Senator that I realize the statement being made is most significant. That was my feeling recently as I sat next to the junior Senator from Massachusetts. Senator JOHN KERRY spoke to the national meeting of AIPAC—The America-Israel Political Action Committee—here in Washington, DC. This was a bipartisan meeting of AIPAC members from throughout our Nation.

In a strong worded presentation, Senator KERRY made an appeal for the United States to be a true friend of Israel. I, particularly, agreed with my friend as he forcefully said:

As a democracy, Israel has both the burden and the glory of a vigorous public square. We as Americans must be the truest and best kind of ally—both forthright enough to say what we think—and steadfast enough to stay the course during the hard passages as well as the easy ones.

Herzl's famous words—"If you will it, it is no dream"—signify the promise and the greatest power of Israel—and the hope, after half a century, that a fair and secure peace is finally within reach. For our part, we must leave here more committed than ever to support Israel in the exacting, essential, and sometimes tense search for that dream. I think its fair to say that the ashes of Holocaust victims were scattered on the wind.

But that wind also carries on it their prayers and purpose—above mountains and sea, across hundreds or thousands of miles, so that the pain of history is redeemed in the land of Israel. It is a sacred place—for them, for their people who live there, and for all the world. So let us now resolve again that the day will never come for Israel when the redemption is put at risk—when any of us would ever have to repeat Schindler's cry and say: We could have done more.

Mr. President, the days seem to be disappearing when a Senator compliments another Senator who sits on the other side of this aisle by making the Senate aware of a significant accomplishment of a colleague. For myself, I would like to restore that tradition.

Senator KERRY's statement was one of the best I have heard. Mr. President, I ask unanimous consent that Senator KERRY's speech to AIPAC be printed in the RECORD. It is one, I believe, all Members of Congress and many citizens of this great Nation of ours should read, contemplate, and discuss.

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

SENATOR JOHN F. KERRY—ADDRESS BEFORE AIPAC—WASHINGTON, DC—APRIL 7, 1997

I really want to share with you that I am honored to be here tonight—and I'm privileged to stand up here tonight and represent the Senate in bi-partisan fashion—because I share your cause, and I also want to pay you respect for the way that you fight the battle. The way that you do so literally does honor to our democracy. The letters you write, the phone calls you make, involvement in our campaigns, your willingness to come to Washington, your commitment to, and search for the truth, is the way it is supposed to be, and you set an example for this country.

I was delighted to participate just a few days ago with Steven in Boston in a Washington club event. And I think it renewed in me my sense, in the intimacy and in the exchange, the dialogue, that meetings like that really give a continuing vitality to a fundamental truth that Israel and the United States do share great ideas as well as a great alliance; and security of Israel is indispensable to the security of the United States of America.

But you know, in truth, our two nations really share something much more than that, and I think you know it. As Prime Minister Netanyahu stated so eloquently tonight—and what a privilege it was to be able to listen to the truth that he spoke this evening—Israel and the United States are neither of us just a place in the land, a piece of geography; both of us are founded on a shining vision of human dignity and purpose.

The Jewish people have taught the world much about dignity and purpose because they have preserved their vision through two thousand years of exile and persecution. And they had to outlast history's fiercest fires of hate.

Teresa and I watched *Schindler's List* as 25 million other Americans did a few weeks ago. We were obviously left asking, as anyone in their right mind and conscience would, why—why—why? But I remembered my trip to Israel, as we all do. My first visit to Yad Vashem in Jerusalem. And I will never forget one sight there that stood out above all others—not the documents or the photographs as stark as they are—but a small child's single lonely shoe, which brought home to me the incomprehensibility of the Holocaust expressed on the most human of scales.

Again, as I watched this movie about a handful who entered the Nazi hell and returned, a small remnant who proved that millions did not have to perish, I thought of the words of Elie Wiesel about others who could have acted to prevent, to stop, to oppose this crime of the century: "Not all were guilty," he said, "but all were responsible."

Schindler himself was a rogue and a philistine, whose transformation was heroic—but it was all too rare. Too many of the God-fearing forgot God. And at the end of the movie, after the Nazis have surrendered and Schindler is preparing to escape, he cries that he had not done all he could have done—or early enough. He could have done more—sold a watch, a lapel pin, a car to secure the lives of others. And so many could have done more in Germany and elsewhere—and yes, done more in America, and in the highest places of power in Washington.

And as we know—and I say we, all of us, with connections of any kind with Israel—anti-semitism did not disappear with the ashes of Auschwitz. Over fifty years after the end of World War II, the ancient evil still stalks our time—striking at Jews around the world and at the Jewish people and the Jewish soul of the state of Israel. What Robert Wistrich called the longest hatred continues to reach far and wide. An explosion ruins a peaceful afternoon in a street cafe in Tel Aviv. There are bombings in a Jewish Community Center in Argentina; the rising popularity of the National Front in France; the prevalence of Skinhead violence and murders in Germany; the arson of Warsaw's last synagogue; the anti-Jewish scape-goating and conspiracy of Louis Farrakhan and the militia groups; the Nazi-like images of Jews in the press in Egypt and Syria, and the blatant anti-Jewish hatred of Hamas proclaiming: "We worship God by killing Jews."

These are different sins, but they are rooted in the same anti-Semitic temptation. Some cannot face the truth, or the twisted hates in their own soul, even today in this country, or the rationalizations for the sake of political advantage or profit. As the youth of Europe ask about the Holocaust and challenge their parents about what they did or

didn't do, the legacy of collaboration and oppression still emerges from under the rocks of a hidden history. We have just witnessed the end of the myth of Swiss neutrality—and we are beginning to look anew at what happened to the stolen property of Jews in Vichy France and Peronist Argentina.

So the question must be asked: Would active resistance to the Holocaust or the preceding anti-Semitism have made a difference? I am not naive about the brutality with which the Nazis often responded to dissent. But in recent years, from the Philippines to Haiti to South Africa, to the former Soviet union, resistance and dissent—and pressure from the outside—changed the course of events. And it is no excuse for citizens or the Church or other leaders of the world to say that it would not have worked. For the most part, they did not even try—and that is the shame of a century.

So the millions who watched "Schindler's List" must contemplate, then amid the tears and heavy hearts, the deeper lesson that we carry out of this blood-stained century. Speaking out against injustice, acting to end bigotry, raising our collective consciousness and looking honestly into the unsparing heart of conscience, and standing up for what is right and hopeful. This is the collective burden—the collective burden and I say privilege of all of us who live today. It is a collective responsibility that we must meet—in our own country—and for so many of us, in the other country of our hearts—the land of Israel.

So we need AIPAC's unwavering voice on this long and winding road to peace in the Middle East. And the journey is harder now than it was a year ago, harder than it was a month ago, harder than it was a few weeks or days ago because we must remind the world that peace is more just than a piece of paper; it is the replacement of death with life, of danger and violence with the laughter of children whose playgrounds no longer need to be guarded with guns, Arab or Israeli. Oh yes—the peace process has delivered a certain amount to Israel—diplomatic, economic, and political benefits—but again in a simple truth—it has not delivered full or real security. It is not peace when seven Israel girls are murdered at the Jordanian border. It is not peace when three more innocent people are killed on the eve of Purim in Tel Aviv, with fifty more injured—among them many children—cut and bleeding from broken glass and nails embedded into the bomb. It is not peace when people cannot get safely on a bus and arrive home to the embrace and joy of family.

No—that is not peace—but I state emphatically—it is a reason why the peace process must go on—not naively, not in a rush, not on a fragile foundation—but it must go on in a genuine search for real peace—and for the real security which defines peace.

So frankly, we all have to work harder, we have to work harder to make real the peaceful dreams of millions of Israelis and millions of others in the world, who look to part of the world for peace. And all of us cannot continue to be held hostage to Hamas and Hezbollah. We must all of us reject the absurd, dishonest and cruel approach—the propaganda, if you will—from some Palestinians—the attempt by some Arafat advisers—to equate terrorist attacks with Israel's decision to construct new housing in Jerusalem, however controversial that decision may be. It is one thing for the Palestinians and others to hear Prime Minister Netanyahu say it, but I want to say it also: Terrorism is an incontrovertible evil, and an unacceptable response. The idea that every bitter dispute between Israelis and the Palestinians can justify Palestinian violence, or justify Arafat's winking at it, or should warrant the release of yet most Hamas leaders, or could excuse the PLO's failure to rewrite its covenant—all this reflects a moral blindness, a failure of courage that only encourages the cowards, the haters and the killers. As Israel is assailed with almost unrelenting fury and Prime Minister Netanyahu is all but demonized by the world press, the parting cry of Schindler—I could have done more—that cry ought to resonate in this room. Are we speaking up enough against a one-sided enforcement of the Oslo Accords? Are the supporters of Israel who did not support Netanyahu now less willing to rebut inaccuracies and attacks than they were when Rabin and Peres were in office? Did too many people just breath a sign of relief when Israel in a single day carried out the withdrawal from Hebron rather than shouting their support in words, letters and op-eds? Will we demand again and again that Iran, Iraq, and Syria be held accountable for Hezbollah and Hamas? Will we insist, over and over, that our Arab friends must move forward with full diplomatic relations with Israel? Will we make clear that the reinstitution of the Arab boycott of Israel is not only morally repugnant but unacceptable to all Americans?

Let me say to you with humility and respect that this all must happen first of all in AIPAC—or it will not happen at all. Now I know that not everyone in this room completely shared the vision of Rabin or Peres about the peace process. Just as I know that not everyone in this room today shares the vision of Prime Minister Netanyahu. Nor is that diversity of opinion here different from what is going on in Israeli living rooms or in the Knesset. There is a distrust of the process, of Arafat, and there is division over how to proceed—or in some quarters whether to proceed at all. But one thing is clear, you know and we know it, an overwhelming majority of people—there and here—seek, work and pray for peace—not a passing illusion—but the reality of a solid, meaningful, secure and reliable peace. As Americans, we owe it to our Israeli partners to stand with them so that they can negotiate from greater strength—to be an ally beside them, not an ally that undermines them. Israel will and should choose its own leaders, its own policy, its own bargaining position; and the United States cannot and should not dictate the outcome.

Let me state it as plainly as I can: The U.N. Security Council has no right to impose insecurity on Israel. President Clinton was right to veto the Security Council resolution on Har Homa—and the United States can and should veto any other similar, one-sided measures that bring discredit on nations such as France and Russia—whose own anti-Semitic records now rebuke their anti-Israel votes.

And I also say to you that for the parties to move ahead—and I believe they will—for the peace to proceed—and I believe it will—AIPAC must be both vigilant and tireless. Legitimate criticism of Israel should be heard, yes. But malicious charges without foundation have no place in our policy debates—as when a shameless Syria sought to blame Israel for intra-Syrian terrorism in Damascus. Last month, on national television, repeated media questions about Israel's alleged failure to carry out its obligations in Hebron were forcefully rebutted by the State Department's Dennis Ross. But they easily could have been accepted by a less knowledgeable guest. It is critical—and this is your role, and ours, as we listen to you—critical that the American public be kept accurately informed about the obligations of Palestinians—and whether they are being fulfilled. What Prime Minister Netanyahu calls lapses in reciprocity are not side issues, but central ones. Such lapses wouldn't be accepted in our arms reduction talks with Yeltsin, they wouldn't be accepted in our trade negotiations with China. How can they be ignored in the life or death arena of the Middle East? Signed agreements have to mean something. They build confidence. They are the road to future negotiations. And broken commitments—or neglected ones—foretell other betrayals to come. Both parties must be held to the same high standard.

In each of my visits to Israel, I have had the privilege of seeing first-hand the special dangers of the Middle East, and of beginning to comprehend the special nature of the Middle East. On one occasion I became an honorary Israeli Air Force pilot when I was allowed to fly an air force jet from the Ovda Airbase. I want you to know it did not come easily. I was frustrated, at one of those terrible, boring luncheons when you're on those journeys, and this great colonel—he was an ace in the war, several times an ace—was sitting next to me, and I'm a pilot and I love to fly every chance I get. And I kept saying, you're sure Tel Aviv won't let me go flying? And finally I persuaded him to make a last phone call, and he came back to me in the middle of a meal, and said to me, "Senator, I hope you haven't eaten too much. We're going flying."

So I raced down to the tarmac, and they had a helmet and a suit for me, and put me in the front seat. He said "I don't have time to do the run-up with you or anything, but the minute we're off the ground, it's your airplane." And I said, boy this guy is trusting. I didn't even tell him if I'd ever flown a jet before. So we took off into the sky, he gave me the airplane the moment we took off, and the next thing I know, he says point-blank into my helmet, "Senator, you are about to go into Egypt airspace." So I immediately ground the stick in and turned, and within a matter of minutes, this United States Senator came close to violating the airspace of Egypt, Jordan, and Syria. let me tell you something, I learned a magical lesson: The promise of peace must be secure before the promised land is secure on a thin margin of land.

Back on the ground on that first trip, I, like so many of my colleagues, toured the beautiful country from Kibbutz Mizgav Am to Masada to the Golan. I stood in the very shelter in a kibbutz in the north where children were attacked and I looked at launching sites and impact zones for Katousha rockets. And like many visitors, I was enthralled by Tel Aviv, moved by Jerusalem and inspired by standing above Capernum, looking out over the Sea of Galilee, where I was bold enough to read aloud the Sermon on the Mount to those who were traveling with me. And I met people of stunning commitment, who honestly and vigorously debated the issues as I watched and listened intently. I went as a friend by conviction; I returned a friend at the deepest personal level with new connections, new understanding.

Who would have thought so much would have changed since that first journey of 1986. But still the Middle East remains a place of deep and disturbing contradictions. Israel's oldest Arab peace partner—Egypt—has a

press obsessed with Nazi-like images of Jews and Israel. At the same time, a Jordanian soldier murders seven Israeli school girls and Jordan's King Hussein pays a personal, poignant, eloquent and historic shiva call on their families.

Through all these contradictions let no one doubt the importance of the road we are on, for the truth is that Hussein's beautiful gesture to a nation all too used to mourning alone is a symbol of real progress. Without Oslo, it would not have happened. It's not that sympathy calls make the peace process worthwhile; it's that bridges between leaders and their people are being built.

Needless to say, there is a very long journey yet ahead of us, and we must march through criticism abroad, and at home, and internally, and in Israel.

As a soldier in Vietnam, who came home to oppose the war, I must say to you that I don't see that kind of criticism as being unpatriotic. For nations like Israel and America that are founded on principles and not just as places, dissent can be the loyalist act of all, and lively debate the living proof of freedom.

As a democracy, Israel has both the burden and the glory of a vigorous public square. We as Americans must be the truest and best kind of ally—both forthright enough to say what we think—and steadfast enough to stay the course during the hard passages as well as the easy ones.

Herzl's famous words—"If you will it, it is no dream"—signify the promise and the greatest power of Israel—and the hope, after half a century, that a fair and secure peace is finally within reach. For our part, we must leave here more committed than ever to support Israel in the exacting, essential, and sometimes tense search for that dream. I think it's fair to say that the ashes of Holocaust victims were scattered on the wind. But that wind also carries on it their prayers and purpose—above mountains and sea, across hundreds or thousands of miles, so that the pain of history is redeemed in the land of Israel. It is a sacred place—for them, for their people who live there, and for all the world. So let us now resolve again that the day will never come for Israel when the redemption is put at risk—when any of us would ever have to repeat Schindler's cry and say: We could have done more.

I might say to you on a personal note that that imperative has been clear since long before the Holocaust. I learned it and I learned how long it has endured in an emotional moment on top of Masada, when I stood on that great plateau where the oath of new soldiers used to be sworn against the desert backdrop and the test of history. I spent several hours with my guide and friend Yadin Roman. On top, we argued, we debated, at his insistence whether or not in fact Josephus Flavius was correct in his account of the siege—whether these really were the last Jews fighting for survival—whether they had escaped since no remains were ever found. And we journeyed back and forth through the possibilities and finally, after our journey through history—which we resolved with a vote in favor of history as recorded—Yadin motioned to me and said come over here and stand with those that we were travelling with, and we stood at the edge of the chasm looking out across the desert, across to the mountains at the other side. And we stood as a group, and altogether, at his command, we shouted across the chasm—across the desert—across the silence—Am Yisrael Chai. And back a slow, echoing voice speaking to us through history came the word Am, Yisrael Chai. Israel lives. The State lives. The people of Israel live. And that is the cause of America, it is the cause of people of conscience all across this planet, and that is why I am proud to be here with you tonight.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

ADOPTION PROMOTION ACT

Mr. DEWINE. Mr. President, I think our friends in the House of Representatives deserve a great deal of praise for what they did yesterday. They passed a bill that would save the lives of many gravely threatened young people in this country. I am referring, of course, to the Adoption Promotion Act of 1997, the Camp-Kennelly legislation, which passed the House by an overwhelming vote of 416 to 5.

For the children in foster care in this country, the average time they spend in foster care is almost 2 years. That is just the average time. These 2 years are often the most important time in that child's development. We need to do everything we can to get these children in safe, stable, permanent, loving adoptive homes.

Why are these children being kept in foster care for so long? I said the average time was 2 years. Sometimes it is 3, 4, 5 years. Sometimes the most important years of their lives are spent in foster care, and sometimes they move from foster home to foster home to foster home. Why do they get shoved from one home to another? Why do they spend so many years in foster care? One reason is that, in some of these cases, the child protective services feel hemmed in by a misinterpretation of a Federal law, a well-intentioned Federal law that this Congress passed in 1980, a law that has done a great deal of good, but a law that contains one provision that I believe has caused a great deal of harm and has caused a great deal of confusion.

Under this 1980 law, the Federal Child Welfare Act, for a State to be eligible for Federal matching funds for foster care expenditures, that State must have a plan for the provision of child welfare services approved by the Secretary of HHS. The State plan must provide, that in each case, reasonable efforts will be made, first, prior to the placement of a child in foster care to prevent or eliminate the need for removal of a child from his home and, second, to make it possible for the child to return to his home.

In other words, Mr. President, no matter what the particular circumstances of a household may be, the State must make reasonable efforts to keep that household, that family together, and then to put it back together if it falls apart.

There is very strong evidence, evidence that I have seen firsthand as I have traveled the State of Ohio and talked to people who are professionals in this field, talked to judges, talked to child services workers, very strong evidence that reasonable efforts have, in some cases, become extraordinary efforts, efforts to keep families together at all costs, efforts to keep families together that are families really in name only. This has resulted in children being put back in abusive homes, put back in situations where no child should have to exist or live.

Every day in this country, three children die of abuse or neglect. Children who are being abused by their parents should simply not be reunified with those parents. That is common sense. The legislation passed yesterday by the House of Representatives makes it clear, by an overwhelming vote, that this is what the House thinks.

Now is the time for the Senate to take action. We have a very good piece of legislation, the Chafee-Rockefeller bill, of which I am honored to be a cosponsor, that has been introduced in this body. It is a piece of legislation that contains many good provisions. One of the provisions it contains is identical language to what the House passed yesterday to simply say what we all know in our heart was intended by the 1980 act, and that is, yes, we should make reasonable efforts to put families back together, we should try to help them, but—but—when those decisions are made at the local, county level or city level, the people who make those decisions must always put safety and the welfare of that child first. The safety of the child must always be paramount. That is good common sense; it is good legislation.

We are halfway there. Now is the time for the U.S. Senate to complete the action and send that bill on to the President. The President has already said that he supports this language, that he supports this concept, that there is, in fact, a problem. The Senate should act very quickly and move on this legislation and really plug this loophole, which has caused a great deal of pain and many problems for our young people in this country today.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. STEVENS). The Senator from Missouri.

NATIONAL DAY OF PRAYER

Mr. ASHCROFT. Mr. President, May 1 is a special day in the United States of America. It has been designated and observed as a national day of prayer. Citizens across the country—having recognized that those of us in positions of responsibility need the kind of wisdom to allow us to make good decisions—have today been observing this National Day of Prayer in our behalf. I rise to thank them.

Abraham Lincoln, in the midst of the crisis that perhaps did more to threaten this country and at the same time,

more to unify it than any other crisis in history, continued to have a strong commitment and dedication to the concept of prayer when he called upon the Nation to reserve a time for repentance, for introspection, and for prayer.

This Nation has survived great challenges—yet still faces great challenges. I believe that its success in the face of challenge in large measure is due to the fact that people have prayed.

A couple thousand years ago, when the Apostle Paul was writing a letter to his friend Timothy, he advised Timothy to say, "Pray for each other and pray especially for those who are in authority that we may lead quiet and peaceable lives in all Godliness and honesty."

I think that was good advice 2,000 years ago, and it is good advice today.

I rise today, as we close this day in the U.S. Senate, to say to those Americans who have been a part of this observance, referred to as the "National Day of Prayer," thank you for your prayers and, as a matter of fact, I think all America owes a debt of gratitude to those who have carried the well-being and welfare of this country to God in prayer on a regular basis. It is with that in mind that I believe the National Day of Prayer is a strong symbol that we have prayer all year—on a continuing basis so that we might do things that advance the very cause for which I think God sent his Son to the world—that we might live life and live it more abundantly. That is the true position of Government, that we would create conditions under which people could live and live in greater abundance and greater freedom.

So I take this moment to reflect upon those who have cared enough to pray for us and to extend to them my appreciation for what they have done in our behalf.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

EXPRESSION OF GRATITUDE FOR PATTY McNALLY, EXECUTIVE ASSISTANT PROTOCOL OFFICER

Mr. LOTT. Mr. President, I rise today to express the deep gratitude of the Senate to Ms. Patty McNally, Executive Assistant and Protocol Officer in the sergeant at arms' office, who is retiring after more than 20 years of dedicated public service in the Senate.

As the chief protocol staffer in the sergeant at arms office, Patty's responsibilities have included coordinating joint sessions of Congress, swearing-in ceremonies, serving many long hours as the Sergeant at Arms representative on the Joint Congressional Inaugural Committee, and the more somber occasions of state funerals. Patty also was responsible for making the protocol and security arrangements for the numerous visits to the Senate heads of states and other dignitaries from around the world.

In 1987, Patty played an important part in the making of Senate history, as she arranged and coordinated the transportation of the Senate delegation to Philadelphia to participate in a very special joint session of Congress that commemorated the bicentennial of the Constitution.

Mr. President, Patty has made substantial contributions to this institution and in the celebration of democracy. Today, we celebrate her contribution and wish her the very best in her new life with her family and friends, and we will envy the view from her home of the Nubble Light House.

THE STORYTELLER IN STONE

Mr. DASCHLE. Mr. President, this Saturday, May 3, marks the 50th anniversary of sculptor Korczak Ziolkowski's arrival in the Black Hills to accept the invitation of the Lakota to create a memorial to honor the great warrior and chieftain, Crazy Horse. Carving this great monument in the mountain became his life's work, and indeed, the life's work of generations of his family.

He was joined at Thunderhead Mountain by Ruth Ross on June 21, 1947, who is now a dear friend of mine. The two married 3 years later, and together they made a life raising their 10 children and slowly shaping the mountain into the form of Crazy Horse, sitting atop his steed with his arm outstretched toward the homelands of the Lakota. Its scale is difficult to comprehend. His face alone is so large that all four faces carved on Mount Rushmore could fit on its expanse. When it is finished, the sculpture will be taller than both the Washington Monument and the Great Pyramids. These figures are made all the more remarkable by the fact that all of the work at the memorial is privately financed, with no support from Government funds. Although Korczak died in 1982, Ruth and the children have proudly carried on with this vision.

No less remarkable is the extraordinary effort made by the Ziolkowski family to educate thousands about the lives of Crazy Horse and the Lakota people, and to improve the lives of Native Americans around the country. Through the Crazy Horse Memorial Foundation, the family oversees a cultural and educational center offering college courses, a research library, the Indian Museum of North America and educational outreach programs. In addition, the Crazy Horse Memorial Native American Scholarship Program has already awarded a total of $175,000 in educational grants. Ultimately, the family hopes to fulfill Korczak's dream of opening a university and medical center on these grounds.

Korczak liked to call himself a "storyteller in stone," and believed that the monument was a noble offering to a man who led his people in battle at Little Bighorn and died before surrendering himself to a white man's prison. I commend Ruth and all the Ziolkowski family in their 50th year of fulfilling this vision.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, April 30, 1997, the Federal debt stood at $5,353,971,314,439.39. (Five trillion, three hundred fifty-three billion, nine hundred seventy-one million, three hundred fourteen thousand, four hundred thirty-nine dollars and thirty-nine cents)

Five years ago, April 30, 1992, the Federal debt stood at $3,891,974,000,000. (Three trillion, eight hundred ninety-one billion, nine hundred seventy-four million)

Ten years ago, April 30, 1987, the Federal debt stood at $2,268,145,000,000. (Two trillion, two hundred sixty-eight billion, one hundred forty-five million)

Fifteen years ago, April 30, 1972, the Federal debt stood at $1,065,660,000,000 (One trillion, sixty-five billion, six hundred sixty million) which reflects a debt increase of more than $4 trillion—$4,288,311,314,439.39 (Four trillion, two hundred eighty-eight billion, three hundred eleven million, three hundred fourteen thousand, four hundred thirty-nine dollars and thirty-nine cents) during the past 15 years.

RETIREMENT OF PAUL KAMINSKI, UNDER SECRETARY OF DEFENSE FOR ACQUISITION

Mr. LEVIN. Mr. President, next week Dr. Paul Kaminski will step down after an extraordinary 3-year tenure as Under Secretary of Defense for Acquisition. In this short period of time, Dr. Kaminski and his acquisition team at the Pentagon have made dramatic steps to turn our procurement culture around, making it more flexible, more creative, and smarter.

Under Dr. Kaminski's leadership, the Department of Defense has successfully implemented three major pieces of acquisition reform legislation: Federal Acquisition Streamlining Act, the Federal Acquisition Reform Act, and the Information Technology Management Reform Act. Those of us who worked hard to enact this legislation appreciate the energy that Dr. Kaminski and others have dedicated to putting it into practice.

But the turnaround in the procurement culture has required far more than the implementation of new laws. Dr. Kaminski and his team have placed the Department of Defense at the forefront of acquisition reform by doing the hard work to revise and simplify thousands of military specifications, to implement streamlined management practices through integrated process teams and the single process initiative, and to make acquisition reform work where the rubber meets the road in tens of thousands of individual contracts awarded every year.

Under Dr. Kaminski's leadership, the Department of Defense has substantially reduced acquisition lead times, reduced the layers of redtape that have often burdened the acquisition system, accelerated the process of incorporating emerging commercial technologies into weapons systems, and simplified the small purchases through the use of the IMPAC credit card. Most impressive of all, Dr. Kaminski has achieved all of this while skillfully managing a steep reduction in the size of the acquisition work force—the career professionals who have borne the brunt of implementing the new acquisition system.

The Congress and the Nation owe Dr. Kaminski a debt of gratitude for his selfless service to the interests of the taxpayer and the national defense. I know my colleagues join me in wishing Paul all the best in the future.

MESSAGES FROM THE HOUSE

At 10:38 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R 867. An act to promote the adoption of children in foster care.

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–1775. A communication from the Director of the Defense Finance and Accounting Service, transmitting, pursuant to law, a report relative to the Defense Commissary Agency; to the Committee on Armed Services.

EC–1776. A communication from the Acting Assistant Secretary of Defense, transmitting, pursuant to law, a report relative to the operations and maintenance budgets for fiscal year 1998; to the Committee on Armed Services.

EC–1777. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to the F–22 aircraft program; to the Committee on Armed Services.

EC–1778. A communication from the Director of the Office of the Secretary of Defense, transmitting, pursuant to law, a report relative to cross-servicing and acquisition actions; to the Committee on Armed Services.

EC–1779. A communication from the Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report on the preservation of minority savings institutions for calendar year 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–1780. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, a report relative to federally insured credit unions; to the Committee on Banking, Housing, and Urban Affairs.

EC–1781. A communication from the Under Secretary of State and the Under Secretary of Commerce, transmitting jointly, pursuant to law, the report on improving export mechanisms and on military assistance for fiscal year 1996; to the Committee on Banking, Housing, and Urban Affairs.

EC–1782. A communication from the Acting General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, three rules including a rule entitled "Protection and Enhancement of Environmental Quality" (FR2206, 4031, 4070) received on April 25, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1783. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, a rule entitled "Overflight Payments to North Korea" received on April 7, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1784. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, a rule entitled "Blocked Persons" received on April 17, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–1785. A communication from the Acting Secretary of Labor, transmitting, pursuant to law, a report relative to the employment rights of veterans; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 79. A resolution to commemorate the 1997 National Peace Officers Memorial Day.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 476. A bill to provide for the establishment of not less than 2,500 Boys and Girls Clubs of America facilities by the year 2000.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation:

Vice Adm. Roger T. Rufe, U.S. Coast Guard, to be Commander, Atlantic area, U.S. Coast Guard, with the grade of vice admiral while so serving.

Kerri-Ann Jones, of Maryland, to be an Associate Director of the Office of Science and Technology Policy.

Jerry M. Melillo, of Massachusetts, to be an Associate Director of the Office of Science and Technology Policy.

Triruvarur R. Lakshmanan, of New Hampshire, to be Director of the Bureau of Transportation Statistics, Department of Transportation, for the term of 4 years. (Reappointment)

Andrew J. Pincus, of New York, to be general counsel of the Department of Commerce.

Kenneth M. Mead, of Virginia, to be inspector general, Department of Transportation.

Rear Adm. James C. Card, U.S. Coast Guard, to be Commander, Pacific area, U.S. Coast Guard, with the grade of vice admiral while so serving.

Mr. McCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably four nominations lists in the Coast Guard, which were printed in full in the CONGRESSIONAL RECORD on January 7, February 5 and 11, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of January 7, February 5 and 11, 1997, at the end of the Senate proceedings.)

The following cadets of the U.S. Coast Guard Academy for promotion to the grade of ensign:

Kelley Elizabeth Abood
Frances Ann Tirad Bacayo
Zachary Justin Bagdon
Hilary Ann Baine
Matthew Patrick Barker
Ian Adam Bastek
Michael William Batchelder
Joshua David Bauman
Jennifer Lydia Becher
Sean Cornell Bennett
Tracy Desterheld Berg
Heather Lin Bloomquist
Kenneth Jeffrey Boda
Scott Gerald Borgerson
David Leonard Bradley IV
Jacqueline Marie Brunette
Craig Donald Burch
Mechelle Elizabeth Burdick
Jeffrey Christopher Bustria
Belinda I. Cachuela
Michael Joseph Capelli
Willie Lee Carmichael
Scott Stephen Casad
William Bartley Cassels
Robert Carlton Compher
Chad William Cooper
Derek Lane Cromwell
Cornelius Edward Cummings
James Dart
Michael S. Degon
Steven Andrew Deveau
John Thomas Dewey
John Richard Dittmar
Tiffany Pamela Drumm
Jerome Edward Dubay
Damon Christian Edwards
Jeffrey Eldridge
Ranshaan Engrum
Theodore Joseph Erdman
Joann Feigofsky
Sarah Kathleen Felger
Christine Fern
Kevin Bertram Ferrie
Elaine Liza Marie Fitzgerald
Taina Haydee Fonseca
Nicolas Todd Forst
John Peter Fox
Michael Edwin Frawley
Glen James Galman
John Withner Garr
Morgan B. Geiger
David Lee Gibson
Michael J. Goldschmidt
David Vincent Gomez
Michael David Good
Hans Christian Govertsen

Matthew Aaron Green
Timothy Aaron Greten
Charles Michael Guerrero
Tim A. Gunter
Robert Edward Hart
Erin Marlene Healey
Wayne Michael Helge
Jonathan Nils Hellberg
Scott Charles Herman
Shannon Marie Heye
Wesley Karl Hout
Joel Alexander Huggins
Christopher James Husler
David Frederick Hunter
Thea Iacomino
Samuel Johnson II
Daniel Christopher Jones
James Jarrod Jones
Eric James Kampert
Kerry Georgia Karwan
Sean R. Katz
Michael Andrew Keane
Peter Joseph Keel
Jared Ethan King
Bradley James Klimek
Michael Stephen Krause
Damian Joseph Kuczma
Charles Frederick Kuebler
Talisha Lawrence
Christian Anthony Lee
Brian Joseph Lefebvre
David Wesley Leone
John B. Lindahl
Lexia Monique Littlejohn
Orlando Carlos Lovell
Kevin Paul Lynn
Ian Mitchell MacGregor
Kevin Christopher Mahoney
Brian Wade Maier
Edzel Dela Cruz Mangahas
Eric D. Martenson
Jennifer Joy Martin
Eric David Masson
John Francis McCarthy
Christopher Allen McMunn
Camilla Beth Messing
Andrew David Meverden
Timothy George Meyers
Fay Juyoun Miller
Peter James Mitchell
Peter Michael Morehouse
Corey Richard Morrison
Anne Marie Morrissey
Justin Thomas Moyer
Kenneth Tyson Nagie, Jr
Kenneth Eric Nelson
Allison Genevieve Nemec
Pierina Marie Noceti
Francis J. O'Connell
David Joseph Obermeier
Sean James O'Brien
Jason William Olguin
Tiffany Renae Olson
Rebecca Ellen Ore
Timothy Alexander Pasek
Tana Marie Payne
Scott William Peabody
Luke Andes Perciak
Arturo Saldana Perez
Richard Graham Perkins
Justin David Peters
Harper Lee Phillips
Scott Satoshi Phy
Frank Allen Pierce
Christopher Michael Pisares
Krysia Victoria Pohl
Steven Edward Ramassini
Joshua Taylor Ramey
Jaime Stalin Ramos
Travis Jeremy Rasmussen
Gregory Charles Rau
Rodrigo Gunther Rojas
Dustin Main Romey
Matthew A. Rudick
David James Schell
Clint Brian Schlegel
Diana Lane Sharp
David Matthew Sherry
Anna Won-Min Slaven
Amy Leigh Sloan
Shad Sammual Soldano
Gabriel W. Solomon
James William Spitler
John Michael Stone
Raymond L. Swetland
Romualdus Matthias Ten-Berge, Jr.
Bruce A. Thibault
Craig Stuart Toomey
Christopher Andrew Tribolet
Clinton Albert Trocchio
Michael Anthony Turdo
Bryan James Ullmer
Chris Mark Upham
James Allen Valentine
Eva Jayoung VanCamp
Nathan John Veirs
Greg Edward Versaw
Carlito Rodriguez Vicencio
Kevin David Wallace
Stephen Matthew Ward
Tyson Scott Weinert
Tamara Nichole Wilcox
Nathaniel Remington Williams
Nicholas Laurence Wong
Andrew James Wright

The following regular officers of the U.S. Coast Guard for promotion to the grade of rear admiral (lower half):

Thomas J. Barrett
James D. Hull
John F. McGowan
George N. Naccara
Terry M. Cross

The following individual for appointment as a permanent regular commissioned officer in the U.S. Coast Guard in the grade of lieutenant:

Brenda K. Wolter

The following regular officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

Robert C. North
Timothy W. Josiah
Fred L. Ames
Richard M. Larrabee III
John T. Tozzi
Thomas H. Collins
Ernest R. Riutta

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. McCONNELL:

S. 675. A bill to amend the Internal Revenue Code of 1986 to modify the application of the passive loss limitations to equine activities; to the Committee on Finance.

By Mr. MURKOWSKI (for himself and Mr. COCHRAN):

S. 676. A bill to amend the Internal Revenue Code of 1986 to increase the standard mileage rate deduction for charitable use of passenger automobiles; to the Committee on Finance.

By Ms. MOSELEY-BRAUN:

S. 677. A bill to amend the Immigration and Nationality Act of 1994, to provide the descendants of the children of female United States citizens born abroad before May 24, 1934, with the same rights to United States citizenship at birth as the descendants of children born of male citizens abroad; to the Committee on the Judiciary.

By Mr. LEAHY:

S. 678. A bill to provide for the appointment of additional Federal circuit and district judges, and for other purposes; to the Committee on the Judiciary.

By Mr. ROCKEFELLER:

S. 679. A bill for the relief of Ching-hsun and Ching-jou Sun; to the Committee on the Judiciary.

By Ms. SNOWE:

S. 680. A bill to amend the Internal Revenue Code of 1986 to allow a credit for interest paid on loans for higher education, to provide for education savings accounts, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 681. A bill to designate the Federal building and United States courthouse located at 300 Northeast First Avenue in Miami, Florida, as the "David W. Dyer Federal Courthouse"; to the Committee on Environment and Public Works.

By Mr. HARKIN (for himself and Mr. FORD):

S. 682. A bill to amend title 32, United States Code, to make available not less than $200,000,000 each fiscal year for funding of activities under National Guard drug interdiction and counterdrug activities plans; to the Committee on Armed Services.

By Mr. STEVENS:

S. 683. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Library of Congress; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CONRAD (for himself, Mr. DASCHLE, Mr. DORGAN, Mr. GRAMS, Mr. JOHNSON, and Mr. WELLSTONE):

S. 684. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide assistance to local educational agencies in cases of certain disasters, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CAMPBELL:

S. 685. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity tax credit for an additional fiscal year; to the Committee on Finance.

By Mr. SARBANES (for himself, Mr. HUTCHINSON, and Mr. TORRICELLI):

S. 686. A bill to establish the National Military Museum Foundation, and for other purposes; to the Committee on Armed Services.

By Mr. JEFFORDS:

S. 687. A bill to enhance the benefits of the national electric system by encouraging and supporting State programs for renewable energy sources, universal electric service, affordable electric service, and energy conservation and efficiency, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BIDEN (by request):

S. 688. A bill to amend the Higher Education Act of 1965 to authorize Presidential Honors Scholarships to be awarded to all students who graduate in the top five percent of their secondary school graduating class, to promote and recognize high academic achievement in secondary school, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BROWNBACK (for himself, Mr. KENNEDY, Mr. D'AMATO, Mr. STEVENS, Mr. HOLLINGS, Mr. HELMS, Mr. MOYNIHAN, Mr. COCHRAN, Mr. DODD, Mr. WARNER, Mr. HARKIN, Mr. NICKLES, Mr. BIDEN, Mr. DOMENICI, Mr. GLENN, Mr. HATCH, Mr. KERRY, Mr. SPECTER, Mr. BREAUX, Mr. GRAMM, Mr. LIEBERMAN, Mr. SHELBY, Mrs. FEINSTEIN, Mr. JEFFORDS, Ms. MOSELEY-BRAUN, Mr. COATS, Mr. REID, Mr. MACK, Mr. CRAIG, Mr. CAMPBELL, Mr. FAIRCLOTH, Mr. COVERDELL, Mr. KEMPTHORNE, Mr. INHOFE, Mr. DEWINE, Mr. SANTORUM, Mr. ASHCROFT, Mr. ABRAHAM, Mr. FRIST, Mr. HUTCHINSON, Mr. SMITH of Oregon, Ms. COLLINS, Mr. ENZI, Mr. ROBERTS, and Mr. SESSIONS):

S. 689. A bill to authorize the President to award a gold medal on behalf of the Congress to Mother Teresa of Calcutta in recognition of her outstanding and enduring contributions through humanitarian and charitable activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BREAUX (for himself, Mr. COCHRAN, Mr. CONRAD, Mr. DORGAN, Ms. MOSELEY-BRAUN, Mr. REID, Mr. ROCKEFELLER, Mr. DASCHLE, and Mr. ROBB):

S. 690. A bill to amend title XVIII of the Social Security Act to improve preventive benefits under the Medicare program; to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. LEVIN, Mr. D'AMATO, Mr. HARKIN, Mr. CLELAND, Mr. GREGG, Mr. AKAKA, Mr. LEAHY, Mr. FORD, Mrs. FEINSTEIN, Mr. ROBB, Mr. WARNER, and Mr. STEVENS):

S.J. Res. 29. A joint resolution to direct the Secretary of the Interior to design and construct a permanent addition to the Franklin Delano Roosevelt Memorial in Washington, D.C., and for other purposes; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCONNELL:

S. 675. A bill to amend the Internal Revenue Code of 1986 to modify the application of the passive loss limitations to equine activities; to the Committee on Finance.

THE EQUINE TAX FAIRNESS ACT OF 1997

Mr. McCONNELL. Mr. President, I rise today to introduce a bill to amend the Internal Revenue Code to modify application of passive loss limitations to horse activities. This week the eyes of the sporting world are focused on the 123d running of the Kentucky Derby at Churchill Downs in Louisville, KY. While it is considered one of the greatest sporting events in the world, the Kentucky Derby is part of a much larger and broader horse industry—one that has a $112 billion economic impact in the United States and supports 1.4 million jobs.

Whether it is owning, breeding, racing, or showing horses—or simply enjoying an afternoon ride along the trail—1 of 35 Americans is touched by the horse industry. There are 6.9 million horses in the U.S. involving more than 7.1 million Americans as horse owners, service providers, employees and volunteers. In Kentucky alone, the horse industry has an impact of $3.4 billion, involving 150,000 horses and 52,900 employees.

What supports the industry—including the job base, the breeding farms, and the revenue stream in the form of $1.9 billion in taxes to all levels of government—is the investment in the horses themselves. The horse industry relies on outside investment to operate, just as other businesses do. Without others willing to buy and breed horses, the 1.4 million jobs supported by this industry are at stake.

Since the Tax Reform Act of 1986, the horse industry has experienced a near-devastating decline with job losses occurring at racetracks, horse farms, and industry suppliers. In addition, hundreds of breeding farms have gone out of business. Most horse owners and breeders believe that the limits on passive losses are a major reason for the decline as well as for the chilled interest of investors in horses. Since the mid-1980's, the number of horses bred and registered has decreased—leading to losses in jobs and revenues for the States.

The 1986 act indicates that in order to satisfy the material participation requirement, a person's involvement must be regular, continuous, and substantial. However, the horse industry is unique, and the passive loss rules are difficult for some to satisfy. Because of the expertise and physical ability that is required, many owners cannot ride, train, breed and show their horses.

The bill I introduce today will alter these requirements to make them fair, workable, and enforceable. I ask unanimous consent that it be printed in the RECORD.

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

S. 675

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 "Equine Tax Fairness Act of 1997".

SEC. 2. APPLICATION OF PASSIVE LOSS LIMITATIONS TO EQUINE ACTIVITIES.

(a) DETERMINATION OF MATERIAL PARTICIPATION.—Subsection (h) of section 469 of the Internal Revenue Code of 1986 (defining material participation) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF EQUINE ACTIVITIES.—

"(A) IN GENERAL.—A taxpayer shall be treated as materially participating in an equine activity for a taxable year if—

"(i) the taxpayer's participation in such activity for such year constitutes substantially all of the participation in the activity of all individuals for such year, other than individuals—

"(I) who are not owners of interest in the activity,

"(II) who are retained and compensated directly by the taxpayer, and

"(III) whose activities are subject to the oversight, supervision, and control of the taxpayer, or

"(ii) based on all of the facts and circumstances, the taxpayer participates in the activity on a regular, continuous, and substantial basis during such year, except that for purposes of this clause—

"(I) the taxpayer shall not be required to participate in the activity for any minimum period of time during such year, and

"(II) the performance of services by individuals who are not owners of interests in the activity shall not be considered if such services are routinely provided by individuals specializing in such services and such services are subject to the oversight, supervision, and control of the taxpayer.

"(B) PARTNERS AND S CORPORATION SHAREHOLDERS.—Subject to paragraph (2), the determination of whether a partner or S corporation shareholder shall be treated as materially participating in any equine activity of the partnership or S corporation shall be based upon the combined participation of all of the partners or shareholders in the activity.

"(C) EQUINE ACTIVITY.—For purposes of this paragraph, the term 'equine activity' means breeding, racing, or showing horses."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 501 of the Tax Reform Act of 1986.

By Mr. MURKOWSKI (for himself and Mr. COCHRAN):

S. 676. A bill to amend the Internal Revenue Code of 1986 to increase the standard mileage rate deduction for charitable use of passenger automobiles; to the Committee on Finance.

THE CHARITABLE EQUITY MILEAGE ACT OF 1997

Mr. MURKOWSKI. Mr. President, in the past week, we have heard a great deal of discussion regarding voluntarism in America. In Philadelphia, President Clinton has been joined by former President Bush and former Chairman of the Joint Chiefs of Staff, Colin Powell, in what has been styled a voluntarism summit.

On the floor of the Senate, we have been attempting to move legislation, which I believe should not be controversial, that would protect volunteers from fear of legal actions resulting from their efforts. I would hope that the impasse over this bill could be broken and we could move forward on this important bill.

In the spirit of encouraging more volunteer efforts in America, I am today introducing the Charitable Equity Mileage Act of 1997. This bill will increase the standard mileage rate deduction for charitable use of an automobile from 12 cents a mile to 18 cents a mile. I think this bill should be unanimously supported by my colleagues on both sides of the aisle.

Mr. President, many of our citizens who volunteer for charitable activities incur expenses for which they are not reimbursed. For example, when an individual uses his or her automobile to deliver a meal to a homebound elderly individual, or to transport children to Scouting activities, the volunteer usually pays the transportation cost out of pocket with no expectation of reimbursement.

I believe the costs associated with charitable transportation services ought to be deductible at a rate which fairly reflects the individual's actual costs. This is especially important for volunteers living in rural States who have to travel long distances to provide community services.

Congress in 1984 set the standard mileage expense deduction rate of 12 cents per mile for individuals who use their automobiles in connection with charitable activities. At the time, the standard mileage rate for business use of an automobile was 20.5 cents per mile. In the intervening 13 years, the business mileage rate has increased to 30.5 cents per mile but the charitable mileage rate has remained unchanged at 12 cents per mile because Treasury does not have the authority to adjust the rate.

By raising the charitable mileage rate to 18 cents a mile, my legislation restores the ratio that existed in 1984 between the charitable mileage rate and the business mileage rate. In addition, the legislation authorizes the Secretary of the Treasury to increase the charitable mileage rate in the same

manner as is currently allowed for business mileage expenses.

All of us agree that with the changing role of the Federal Government, we need to do more to encourage voluntarism in our country. Volunteers who provide transport services should be allowed to deduct such costs at a rate which fairly reflects their true out-of-pocket costs. That is precisely what this bill does and I urge my colleagues to join with me in sponsoring this important legislation.

Mr. President, I have a letter of support for my bill from the American Legion and I ask unanimous consent that this letter be printed in the RECORD.

I further ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 676

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 "Charitable Travel Equity Act of 1997".

SEC. 2. INCREASE IN STANDARD MILEAGE RATE EXPENSE DEDUCTION FOR CHARITABLE USE OF PASSENGER AUTOMOBILE.

(a) IN GENERAL.—Section 170(i) of the Internal Revenue Code of 1986 (relating to standard mileage rate for use of passenger automobile) is amended to read as follows:

"(i) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), for purposes of computing the deduction under this section for use of a passenger automobile, the standard mileage rate shall be 18 cents per mile.

"(2) TAXABLE YEARS BEGINNING AFTER 1998.—Not later than December 15 of 1998, and each subsequent calendar year, the Secretary may prescribe an increase in the standard mileage rate allowed under this subsection with respect to taxable years beginning in the succeeding calendar year if the Secretary determines that such increase is necessary to reflect increased costs in the use of passenger automobiles."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.

THE AMERICAN LEGION,
Washington, DC, April 24, 1997.

Hon. FRANK MURKOWSKI,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MURKOWSKI: The American Legion fully supports the "Charitable Travel Equity Act of 1997," to amend the Internal Revenue Code of 1986 to increase the standard mileage rate deduction for charitable use of passenger automobiles.

Not only does The American Legion applaud the increase in the mileage rate deduction, but more importantly this measure fixes the problem that has not allowed for incremental increases without an act of Congress action. The standard mileage rate deduction for business use of passenger automobiles has increased significantly while no adjustments were made in the charitable use rate. Granting the Secretary the authority to make prescribed adjustments will provide fairness and promote additional volunteerism.

Thank you for your continuous leadership on behalf of America's veterans and their dependents.

Sincerely,

STEVE ROBERTSON,
Director, National Legislative Commission.

By Ms. MOSELEY-BRAUN:

S. 677. A bill to amend the Immigration and Nationality Act of 1994, to provide the descendants of the children of female U.S. citizens born abroad before May 24, 1934, with the same rights to U.S. citizenship at birth as the descendants of children born of male citizens abroad; to the Committee on the Judiciary.

THE EQUITY IN TRANSMISSION OF CITIZENSHIP ACT OF 1997

Ms. MOSELEY-BRAUN. Mr. President, I am introducing a bill today that will amend legislation written by my former colleague, the distinguished Senator from Illinois, Paul Simon, and enacted into law. Three years ago, Senator Simon was the leader in enacting the Immigration and Nationality and Technical Corrections Act of 1994. My bill seeks to add a further correction to the Immigration and Nationality Act, so that the spirit and intent of Senator Simon's work is enacted into law.

Prior to 1934, a child born overseas to a U.S. father and a foreign mother was recognized by the United States as a U.S. citizen. However, a child born overseas to a U.S. mother and a foreign father was considered to be a foreign national, not a U.S. citizen. Effectively, therefore, before 1994, U.S. fathers could pass on their citizenship to children born overseas, but U.S. mothers could not. Senator Simon sought to remedy this gender inequality by automatically granting U.S. citizenship to those individuals born overseas to U.S. mothers before 1934. Under his legislation, the Immigration and Nationality and Technical Corrections Act of 1994, the children of American mothers and foreign fathers became U.S. citizens.

His legislation also contained language to address the third generation—the children of these children. It is likely that the grandchildren of the U.S. mothers and foreign fathers would have been U.S. citizens had their children been U.S. citizens. Therefore, the 1994 law also granted U.S. citizenship to these grandchildren.

This provision granting citizenship to the grandchildren, however, contradicted another section of the Immigration and Nationality Act [INA]. INA states that in order to transmit U.S. citizenship from a parent to a child born overseas, the parent must have lived in the United States for 10 years. A U.S. citizen who has a child overseas needs to have lived in the United States over a 10-year period to pass on U.S. citizenship to his or her children. This transmission requirement is gender neutral, and applies to all U.S. citizens who have children overseas.

Senator Simon's law did not specifically waive this transmission requirement for the third generation, although the language of the bill clearly stated that it intended to grant citizenship to the grandchildren of the American mothers. The lawyers at INS have concluded that the transmission requirement must be met in order to pass citizenship onto the grandchildren of the American mothers and foreign fathers. In other words, INS is requiring the third generation to show that the second generation lived in the United States for 10 years in order to pass citizenship to the third generation.

This is impossible given that the second generation was never allowed to live in the United States because they were not citizens until 1994. Thus the provision of the 1994 law granting citizenship to these grandchildren was never implemented.

The purpose of my bill is to waive the transmission requirement for the grandchildren of the American mothers and foreign fathers. The third generation will not have to show that the second generation lived in the United States for 10 years. They will be granted citizenship even though their parents did not live in the United States for 10 years. This bill will help a small number of people who should have been U.S. citizens by birth. It will ensure that the spirit of Senator Simon's legislation is enacted into law. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 677

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 "Equity in Transmission of Citizenship Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) since the children born abroad to United States citizen mothers before May 24, 1934, only became entitled to claim United States citizenship, acquired at birth, as of October 25, 1994, with the enactment of Public Law 103–416, they were not legally admissible into the United States as citizens prior to that date; and

(2) therefore, they could not meet the residency requirements to transmit United States citizenship onto their children as the children of male United States citizens could.

SEC. 3. EQUAL TREATMENT OF CHILDREN BORN ABROAD OF FEMALE UNITED STATES CITIZENS IN CONFERRING CITIZENSHIP TO CHILDREN BORN ABROAD.

(a) IN GENERAL.—Section 101 of Public Law 103–416 is amended by amending subsection (d) to read as follows:

"(d) WAIVER OF TRANSMISSION REQUIREMENTS.—The parental physical presence requirement contained in section 301(g) of the

Immigration and Nationality Act shall not apply to any person born before the date of enactment of this Act who claims United States citizenship based on such person's descent from an individual described in section 301(h) of the Immigration and Nationality Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have become effective as of October 25, 1994.

By Mr. LEAHY:

S. 678. A bill to provide for the appointment of additional Federal circuit and district judges, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL JUDGESHIP ACT OF 1997

Mr. LEAHY. In that regard, today being Law Day I think we should honor the Federal judiciary. We have a political climate where many of my colleagues bash the Federal judiciary on a daily basis and propose legislation that threatens a time-honored independence of the Federal judiciary. I think our Nation's judges deserve our respect, admiration, and support—not our disdain, scorn, and antipathy. Anywhere you go in the world you will find that one of the things that stands out, one of the things admired most about the United States, is the independence of our Federal judiciary.

For the past 200 years, they protected the freedoms and fundamental rights we all take for granted. You could ask, where would our cherished rights like first amendment-protected free speech and the right of religious freedom be without the Federal courts? It is ironic that the right of free speech that the Federal judiciary bashers take for granted in the war against judges has been protected time and time again by those very same judges.

It is our independent judiciary that handed down landmark decisions like Brown versus Board of Education. Without our independent judiciary, how long would African-American children have to suffer deplorable conditions in substandard schools? I remember after Brown versus Board of Education, we had the bumper stickers and billboards, "Impeach Earl Warren," and "Impeach the Supreme Court." Well, only because they were politically independent could they hand down a decision so unpopular at the time, but so recognized today universally as the right decision. I shudder to think where we would be today with Federal judges who are tied to the political whims of the moment. We should talk about where the country would be without independent Federal judges.

The nonpartisan Judicial Conference of the United States has proposed changes in the makeup of our courts. It has been 7 years since Congress last seriously reexamined the caseload of the Federal judiciary.

Mr. President, our judges do an admirable job under tough conditions. They endure constant criticism and heavy caseloads. Contrary to what some of my Republican colleagues have stated, there is a need for more Federal judges.

The Judicial Conference of the United States, the nonpartisan policymaking arm of the judicial branch, believes that the continuing heavy caseload of our courts of appeals and district courts merit additional judges. Overworked judges and heavy caseloads slow down the judicial process, and as we all know, justice delayed is justice denied. Mr. President, we must act now.

Mr. President, on Law Day, a day to commemorate our Nation's legal system and the freedoms it is designed to protect, I introduce the Federal Judgeship Act of 1997. This legislation, identical to the recommendations of the nonpartisan Judicial Conference of the United States, would create 12 additional permanent judgeships and five temporary judgeships for the U.S. Court of Appeals; and 24 additional permanent judgeships and 12 temporary judgeships for the U.S. district courts.

In 1984, Congress passed a bill to address the need for additional judgeships. Six years later, in 1990, Congress again fulfilled its constitutional responsibility and enacted the Federal Judgeship Act of 1990 because of a sharply increasing caseload, particularly for drug-related crimes.

It is now 7 years since Congress last seriously reexamined the caseload of the Federal judiciary and the need for more Federal judges. Let us act now. Let us fulfill our constitutional responsibilities. Let us ensure that justice is not delayed or denied for anyone.

By Mr. ROCKEFELLER:

S. 679. A bill for the relief of Ching-hsun and Ching-jou Sun; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. ROCKEFELLER. Mr. President, today, I am introducing a private relief bill that is based on careful reflection and a sincere desire to help a family of importance to me and my State of West Virginia.

This is an effort to assist an individual named Jack Sun who is a prominent international businessman and multinational manager with permanent residence status in the United States. Mr. Sun sought and obtained permanent residence in the United States to enable him to pursue economic business and ties between his native Taiwan and the United States.

Of great significance to West Virginia, in his capacity as Chairman of Taiwan Aerospace Corp., Jack Sun has been instrumental in forging a Taiwan/United States joint venture named Sino Swearingen, Inc., that will build state-of-the-art business jets in my home State of West Virginia. Taiwan Aerospace Corp., and its Taiwanese coinvestors have to date committed an amount in excess of $150 million to finance this joint venture. Sino Swearingen, Inc., is expected to employ around 800 people at this West Virginia site when it becomes fully operational.

As someone who knows Jack Sun personally and has worked closely with him to pursue this new investment and jobs opportunity for West Virginia, I know him to be an honorable individual. He is an internationally respected business leader, well known to the American business community. Jack Sun has worked extremely hard to develop and maintain strong personal and business ties in the United States. In addition to his business activities, Jack Sun is active in the cultural and academic life of both Taiwan and the United States. He also sits on the University of Southern California School of Business Administration's CEO board of advisors.

Jack Sun, in his capacity as president of Pacific Electric Wire & Cable Co., Ltd, has, over the past 10 years, directed significant investments into the United States and has created thousands of jobs for Americans. Mr. Sun is the president of Pacific USA Holdings Corp. headquartered in Dallas, TX. Pacific USA Holdings Corp. is a diversified holding company whose business activities encompass commercial banking, home building, mortgage and investment banking, property development, insurance and technology services, to name but a few. Pacific USA Holdings Corp. and its subsidiaries now employ more than 2,000 U.S. workers.

Jack Sun also serves as director of the Iridium project which is an international alliance sponsored by Motorola, Inc., whose purpose is to create a global network of telecommunications systems through the use of low-orbiting satellites.

The purpose of this private bill is to attempt to assist Jack Sun in expediting the completion of the permanent residence process that is well underway through conventional procedures for his two youngest children, Ching-Jou Sun, age 8, and Ching-Hsun Sun, age 6. Jack Sun's three eldest children received their permanent residence status on April 28, 1992.

Regarding this bill, in July, 1995, a petition for alien relative was filed on behalf of ching-jou and Ching-Hsun Sun. The Immigration and Naturalization Service approved the petitions on January 30, 1996. Upon approval of the petitions, the children were assigned a priority date of July 26, 1995.

However, Jack Sun and his attorney have been informed by the Department of State's Bureau of Consular Affairs, that in the preference category for which Ching-Jou and Ching-Hsun Sun have been approved, the number of people approved for issuance of visas far exceeds the number of visas currently available for actual issuance. Consequently, the children have been assigned a priority date that is a place on

the waiting list. The National Visa Center states that based upon the current conditions and backlog, the priority date held by Ching-Jou and Ching-Hsun Sun will not be reached for more than 4 years.

Ching-Jou and Ching-Hsun Sun are now in the process of waiting for their green cards which would enable them to live and go to school in the United States with their sisters and brother. To add to the problem, during this waiting period, the children cannot even travel with their father and family in the United States. The children cannot obtain even a visitor's visa because they have already indicated their immigration intent.

Although the petitions were approved on behalf of Ching-Hsun Sun and Ching-Jou Sun, the prolonged continuation of the waiting period has created personal hardships for Jack Sun, and his family. Jack Sun's three oldest children permanently reside in Pasadena, CA. The two oldest daughters presently attend the University of Southern California. Jack Sun simply would like his family to be together as much as possible. This means he wishes to be able to travel with his children to the United States, and to unify his family. Under the present circumstances, the family is split, three children holding permanent residence status and living in the United States, while the two youngest children have to remain in Taiwan during this prolonged waiting period and the potential 6 year delay before achieving visas for permanent residence status.

This forced separation creates a particular hardship because of the ages of the children. The children are not permitted to travel with their father and are separated from their father and siblings for years to come. Jack Sun frequently and extensively travels to the United States to oversee his business operations.

There is simply no further administrative procedure to use to resolve this situation for the Sun family and these two children. They are confronted with an extraordinarily long delay waiting for visas already approved to actually become available. No administrative remedy exists to cure this situation. No further relief is available from the Immigration and Naturalization Service or any other agency. The relevant administrative agencies, including the Immigration and Naturalization Service and the National Visa Center at the State Department, have informed Jack Sun and his attorney that there is no administrative vehicle to expedite conclusion of the permanent residence process.

Therefore, I have decided to seek a legislative remedy for Jack Sun's family. After carrying out all the steps needed to obtain approval for resident status, they face a 6-year waiting period that now condemns a father and children to prolonged periods of separation.

Because of my respect for Jack Sun and deep appreciation for the role he has played in locating a major new source of jobs and opportunity for West Virginians, I am asking Congress to take the legislative action required to relieve a family of undue hardship and separation solely resulting from the grim reality that two children would otherwise have to wait 6 years to get visas they already have been approved for. I believe this is just the example of an extraordinary personal situation that merits congressional assistance and action.

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. 679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Ching-hsun Sun and Ching-jou Sun shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Ching-hsun Sun and Ching-jou Sun as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by the appropriate number during the current fiscal year the total number of immigrant visas available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

By Mr. GRAHAM (for himself and Mr. MACK):

S. 681. A bill to designate the Federal building and U.S. courthouse located at 300 Northeast First Avenue in Miami, FL, as the "David W. Dyer Federal Courthouse"; to the Committee on Environment and Public Works.

DAVID W. DYER FEDERAL COURTHOUSE LEGISLATION

Mr. GRAHAM. Mr. President, today I have the distinct pleasure to introduce legislation that would redesignate the Old Federal Courthouse in Miami, FL, the "David W. Dyer Federal Courthouse."

Residing behind the bench for over 30 years, Judge Dyer distinguished himself as one of the finest jurists in the State of Florida, and his commitment to public service dates back to his service in the U.S. Army during World War II.

In 1961, President John F. Kennedy appointed him to the District Court for the Southern District of Florida. At the time the Southern District included Tampa, Jacksonville, and Miami. The following year the district was pared down and he became the initial chief judge of the reconfigured Southern District. Judge Dyer would continue to serve in this capacity for the next 4 years.

President Lyndon Johnson then appointed him to the U.S. Court of Appeals for the Fifth Circuit in 1966. This marked the first time that anyone from Miami had been honored with the opportunity to serve on the court of appeals. In 1977, Judge Dyer rose to the position of senior judge for the fifth circuit and carried this status over into the Eleventh Circuit Court of Appeals.

During the turbulent 1960's, Judge Dyer participated in a number of civil rights cases. This period was an era when the Federal courts were called to implement the constitutional ideal of equal justice under the law for all Americans. It was a proud time in our legal history and Judge Dyer is part of that legacy. In one such case, he was responsible for the desegregation of the restaurants on the Florida Turnpike.

Judge Dyer served his community in a variety of other capacities. He is a former member of the board of governors and executive committee of the Florida Bar, as well as the board of governors of the Maritime Law Association. He also served as president of the Dade County Bar, the largest in Florida.

Judge Dyer has been an inspirational model for two generations of lawyers. He has shown through his example what integrity of character, sound judgment, and courage of conviction can achieve in implementing our highest ideals.

Mr. President, Judge Dyer spent much of his life working out of the Old Federal Courthouse in Miami. Passage of this legislation to redesignate the building in Judge Dyer's name would be a small, but fitting token of appreciation that America and its judicial system owe Judge Dyer for his years of distinguished service. I urge my colleagues to support me in enacting this measure.

By Mr. HARKIN (for himself and Mr. FORD):

S. 682. A bill to amend title 32, United States Code, to make available not less than $200,000,000 each fiscal year for funding of activities under National Guard drug interdiction and counterdrug activities plans; to the Committee on Armed Services.

NATIONAL GUARD COUNTERDRUG STATE PLAN PROGRAM LEGISLATION

Mr. HARKIN. Mr. President, the National Guard has a history of superb performance in supporting the needs of law enforcement agencies and community antidrug coalitions. Every day the National Guard has nearly 4,000 soldiers and airmen on full-time counter drug duty. Three-hundred and seventy-

three in support of the Drug Enforcement Agency [DEA], 625 in support of U.S. Customs, and 3,000 more in support of local, State, and Federal law enforcement agencies in every State in the Nation.

Unfortunately, for the last 5 years, this successful program has been on a budget rollercoaster. For example, funding for the fiscal year 1998 National Guard Counterdrug State plans program will result in a 42-percent cut in the amount actually available to State plans from the fiscal year 1997 level. It is tough to maintain program consistency when the funding level fluctuates each year. Legislation I am introducing today, along with Senator FORD, the co-chairman of the National Guard Caucus, will stabilize funding for the National Guard Counterdrug State plans program at no less than $200 million each fiscal year.

Iowa law enforcement, as well as law enforcement across the United States, relies heavily on the help of the National Guard in their drug fighting efforts. The National Guard provides personnel and equipment to local law enforcement agencies. Guard men and women assist with analytical and technical support so that criminal investigators can be out on the street. The Iowa High Intensity Drug Trafficking Area [HIDTA] task force plans to utilize National Guard support as part of their efforts to fight methamphetamine trafficking in Iowa. Guard men and women also work in partnership with the Community Anti-drug Coalition of America and expect to reach 10 million young people in the country to help educate and motivate them to reject the use of illegal drugs.

As we face unprecedented drug problems in Iowa and across the Nation, it is necessary to maintain consistent funding for the drug fighting efforts of the National Guard. Not only does the National Guard Counterdrug Program free up criminal investigators to fight crime on the streets, it provides an avenue for cooperation that makes enforcement more efficient as well. This program traditionally enjoys bipartisan support and affects law enforcement all across the United States. I encourage my colleagues to support this important legislation.

By Mr. STEVENS:

S. 683. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Library of Congress; to the Committee on Banking, Housing, and Urban Affairs.

THE LIBRARY OF CONGRESS BICENTENNIAL COMMEMORATIVE ACT OF 1997

Mr. STEVENS. Mr. President, today I am introducing legislation that would authorize the minting of silver $1 coins and gold $5 coins in commemoration of the bicentennial of the Library of Congress. The year 2000 will mark this important event for the Congress and the Nation. Over the past two centuries, the U.S. Congress has built its library into America's library and the greatest repository of recorded knowledge and creativity in the history of the World.

Proceeds from the coin will help the library support bicentennial programs, educational outreach, and other activities including programs with schools and libraries across the Nation.

The Library of Congress' bicentennial merits a U.S. commemorative coin. The library is an institution that has an enduring effect on the Nation's culture and history. As vice chairman of the Joint Committee on the Library, I am pleased to offer this legislation and I welcome and encourage my colleagues to join as cosponsors.

By Mr. CONRAD (for himself, Mr. DASCHLE, Mr. DORGAN, Mr. GRAMS, Mr. JOHNSON, and Mr. WELLSTONE):

S. 684. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide assistance to local educational agencies in cases of certain disasters, and for other purposes; to the Committee on Environment and Public Works.

DISASTER RELIEF LEGISLATION

Mr. CONRAD. Mr. President, last week on several occasions I spoke about the devastating impact of the floods along the Red River Valley on the residents of the communities in North Dakota, South Dakota, and Minnesota.

I note that the current occupant of the chair sent me a very gracious note about the fact that he has relatives in North Dakota. I want to acknowledge his offer to help, which we appreciate very much.

The impact of the floods on small communities and the city of Grand Forks, ND has been extraordinary. In Grand Forks alone, more than 60,000 residents have been evacuated to temporary shelters. Much of downtown Grand Forks has been destroyed by fires, and an estimated 28 to 35 schools and higher education facilities have been severely damaged or destroyed by the floods.

This disaster has left more than 11,000 elementary and secondary students and 10,500 university students without school facilities for classroom instruction. Many of these elementary and secondary students are attending classes in more than 30 school districts across the State. The North Dakota Office of Management and Budget has estimated that damage to local education facilities, as well as the unanticipated costs to provide education services for displaced students around the State, may exceed $250 million.

Mr. President, local school districts and the North Dakota University system will need considerable assistance from the Department of Education and the Federal Emergency Management Agency [FEMA] to fully recover from this terrible disaster. I have been advised that FEMA, under the Robert Stafford Disaster Relief and Emergency Assistance Act, has the authority to provide assistance to local governmental agencies including school districts and the North Dakota University system, for repair of educational facilities.

FEMA, however, does not have authority under the Stafford Act to assist or reimburse a local school district for providing unanticipated educational services to displaced students.

Such emergency educational assistance was available in the past to local school districts from the Department of Education under Impact Aid, section 7—assistance for current school expenditures in cases of certain disasters. This law, unfortunately, was repealed in 1994 during consideration of the Improving America's School Act.

Prior to 1994, for example, school districts affected by natural disasters including Hurricane Andrew—1992—in Dade County, FL, and communities in 7 states impacted by the Midwest floods—1993—were eligible for disaster assistance to meet emergency education operating expenses. In North Dakota, more than 30 school districts throughout the State are assisting 11,000 displaced students from the Grand Forks area. Another 30,000 students in Minnesota are displaced and attending classes in school districts across the State. These school districts are in urgent need of similar emergency assistance.

Mr. President, today I am introducing legislation to restore the authority to provide this emergency education operations assistance for elementary and secondary schools. I am very pleased that Senators DASCHLE, JOHNSON, DORGAN, WELLSTONE, and GRAMS are joining me as cosponsors of this bill.

Under this legislation, FEMA would be authorized in section 403—essential assistance—to provide disaster assistance including transportation, emergency food services, and the costs for providing educational services to students who formerly attended other schools, including private schools, that were damaged or destroyed by disaster. This emergency assistance would also be available to schools funded by the Bureau of Indian Affairs provided the schools are in the area that has been declared a major disaster by the President.

As FEMA currently has the authority to restore educational facilities, I believe the agency is best equipped to respond quickly to the emergency operating needs of school districts affected by disasters. As I noted earlier, school districts in 7 states affected by Midwest floods and Dade County schools impacted by Hurricane Andrew benefited from this emergency assistance in

1992–94. There is no question that school districts in North Dakota, South Dakota, and Minnesota urgently need similar assistance. I intend to offer this legislation as part of the supplemental disaster assistance measure when it reaches the Senate floor. I hope my colleagues will support this urgent need.

By Mr. CAMPBELL:

S. 685. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity tax credit for an additional fiscal year; to the Committee on Finance.

LEGISLATION TO EXTEND THE WORK OPPORTUNITY TAX CREDIT

Mr. CAMPBELL. Mr. President, today I am introducing legislation which would provide for a 1-year extension of the work opportunity tax credit, authorizing the credit beyond this fiscal year through the end of fiscal year 1998.

My colleagues know well the history behind the work opportunity tax credit. It is the successor to the targeted jobs tax credit which expired 2 years ago and which received some criticism that it was an ineffective incentive mechanism. However, Congress felt that there could be some type of worthwhile incentive which could encourage employers to hire individuals from economically disadvantaged groups, and as a result, the credit was revised, renamed the work opportunity tax credit, and incorporated into the Small Business Job Protection Act (P.L. 104–188), which the Congress passed and the President signed into law last year.

The revised tax credit, with tougher standards, such as in the area of certification and retention requirements, was authorized for 1 fiscal year and is set to expire on September 30, 1997. The legislation I am introducing today would simply provide for an extension of the work opportunity tax credit for 1 additional fiscal year, through September 30, 1998.

There are several reasons for the extension. First, employers now have a tax incentive to hire individuals from targeted economically disadvantaged groups, providing these individuals with jobs and valuable work experience. In the wake of the historic welfare reform legislation which was signed into law last year, I believe this incentive to put people to work is a vital one, and it should be given the opportunity to work.

Second, Congress authorized this credit for 1 year to allow the Department of Labor, the Department of the Treasury, and the Congress to study the costs and benefits of the credit. To date, there are no statistics available. And while we await a more complete set of statistics on how the revised tax credit is performing, I believe the Congress should begin consideration of an extension of this credit to allow more employers to take part in the program and to provide an assurance to employers and potential employees alike that there is an incentive which is available to stimulate job opportunities. The sooner we are able to provide an extension for the credit, the more secure both the employers and the employees who take part in this credit will be.

In addition, authorizing the credit for an additional fiscal year will provide this Congress with a set of statistics available from multiple fiscal years, not just 1, allowing us to better assess the costs and benefits of the WOTC.

I am hopeful that the revised tax credit will prove more successful than its predecessor. I have long been a supporter and advocate for the promotion of job opportunities and job training for at-risk youth and ex-offenders, in particular. Any incentive to put more Americans to work should be given the chance to succeed; 1 year is simply not enough.

With that, I ask this bill be referred to the appropriate committee. During the 105th Congress, a number of tax proposals will be under consideration, and it is my hope that, by introducing this measure, the work opportunity tax credit does not get lost in the shuffle and expire prematurely.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 685

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ONE-YEAR EXTENSION OF WORK OPPORTUNITY TAX CREDIT.

Section 51(c)(4)(B) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking "September 30, 1997" and inserting "September 30, 1998".

By Mr. SARBANES (for himself, Mr. HUTCHINSON, and Mr. TORRICELLI):

S. 686. A bill to establish the National Military Museum Foundation, and for other purposes; to the Committee on Armed Services.

NATIONAL MILITARY MUSEUM FOUNDATION LEGISLATION

Mr. SARBANES. Mr. President, today I am introducing on behalf of myself, Mr. HUTCHINSON, and Mr. TORRICELLI, legislation to create a National Military Museum Foundation. The purpose of this legislation is to encourage and facilitate private sector support in the effort to preserve, interpret, and display the important role the military has played in the history of our Nation. This legislation is, in my judgment, crucial at this particular moment in history, when we are on the verge of jeopardizing two centuries worth of military artifacts and negating the possibility of such collections in the future.

It has been the long-standing tradition of the U.S. Department of War and its successor, the Department of Defense, to preserve our historic military artifacts. Since the days of the revolution to the conflict in Bosnia, Americans have been proud of the role that our military has had in safeguarding our democracy, and we have tried to ensure that future generations will know that role. Over the years we have accumulated a priceless collection of military artifacts from every period of American history and every technological era. The collection includes flags, uniforms, weapons, paintings, and historic records as well as full-size tanks, ships, and aircraft which document history and provide provenance for our Nation and armed services.

In recent years, however, the dedicated individuals who identify, interpret, catalog, and showcase those artifacts have found themselves shortchanged and shorthanded. With financial resources diminishing, not only are we cheating ourselves out of the military treasures currently warehoused out of public sight, but we are in danger of lacking the funds to update our collections with new items.

"A morsel of genuine history," wrote Thomas Jefferson to John Adams in 1817, "is a thing so rare as to be always valuable." Mr. President, today, significant pieces of our military history are being lost, shoved into basements, or subject to decay. With each year also comes less funding, and our artifacts are multiplying at a pace that exceeds the capabilities of those who are trying to preserve them. Since 1990 alone, the services have closed 21 military museums and at least 8 more are expected to close in the next few years.

We cannot let this proceed any further. Military museums are vital to documenting our history, educating our citizenry, and advancing our technology. More than 81 museums in 31 States and the District of Columbia daily instill Americans from veterans to new recruits to elementary school students with a sense of the sacred responsibility that military servicemen bear to defend the values that have made this country great.

Military museums teach our servicemen the history of their units, enhancing their understanding both of the team of which they are a part and the significance of the service they have pledged to perform. And when a museum makes history come alive to young children, those children learn for themselves what this country stands for and the sacrifices that have been made to preserve the freedoms we often take for granted.

Many of our servicemen have learned their military history through these artifacts rather than textbooks, and many of our technological advances

have come as a direct result of these artifacts. The ship models and ordinances at U.S. Naval Academy Museum in Annapolis, MD, for example, have been used by the Academy's Departments of Gunnery and Seamanship. It has also been reported that a study of an existing missile system, preserved in an Army museum, saved the Strategic Defense Initiative $25 million in research and analysis costs. These museums serve as laboratories where engineers can learn from the lessons of the past without going through the same trial and error process as their predecessors.

Yet without adequate funding, these benefits will be lost forever. According to a 1994 study conducted by the Advisory Council on Historic Preservation entitled, "Defense Department Compliance with the National Historic Preservation Act," the Department of Defense's management of these resources has been mediocre, with the cause attributed to inadequate staffing and funding.

More than 80 percent of the museums studied said their survival relies heavily on outside funding. When asked about their greatest needs, the response was nearly always staff and money. And those museums that reported sufficient staffing from volunteers nevertheless said that the dearth of funds for restoration and construction paralyzed them from fully utilizing the available labor.

According to the study, money is so tight that brochures and pamphlets are often unaffordable, leaving visitors with no explanations about the objects they have come to see. A young child might be duly impressed by the sight of a stern-faced general, but the historical lesson is greatly diminished if the child is not told the significance of the event portrayed or why the general looked so grim that day.

Perhaps most distressing, the study reported "substantial collections of rare or unique historical military vehicles and equipment that are unmaintained and largely unprotected due to lack of funds and available expertise." In addition, the museums were found to be struggling so much with the care of items already in house, that they were unable to accept new ones. With a new class of military artifacts from the Vietnam and gulf wars soon to be retired, one wonders whether those artifacts will be preserved. If we do not take action to save what we have and acquire what we don't, future generations will see these pockets of negligence as blank pages in the living history books that these museums truly are.

Only a Foundation can address these problems. The alternate solution—to press the services to devote more money to these institutions—is implausible in this budgetary climate. The Secretary of Defense must place his highest priority on the readiness of our forces. Closely allied to that priority is the effort to improve the quality of life for our citizens on active duty. And, as aging equipment faces obsolescence, the Secretary has indicated that the future will bring an increased emphasis on replacing weapons systems. By all realistic assumptions, the amount of funds appropriated for museums is likely to continue downward.

My bill recognizes the growing need for a reliable source of funding aside from Federal appropriations. A National Military Museum Foundation would provide an accessible venue for individuals, corporations, or other private sources to support the preservation of our priceless military artifacts and records. A National Military Museum Foundation could also play an important role in surveying those artifacts that we know to exist. Currently, there is no museum oversight or coordination of museum activities on the DOD level. A wide-ranging Foundation survey would therefore not only eliminate duplication, but would most likely discover gaps in our collections that must filled before it is too late.

Under the proposed legislation, the Secretary of Defense would appoint the Foundation's Board of Directors and provide basic administrative support. To launch the Foundation, the legislation authorizes an initial appropriation of $1 million. It is anticipated that the Foundation would be self sufficient after the first year. This is a small price to pay to save some of our most precious treasures.

This legislation is modeled on legislation that established similar foundations, such as the National Park Foundation and the National Fish and Wildlife Foundation, both of which have succeeded in raising private-sector support for conservation programs. My bill is not intended to supplant existing Federal funding or other foundation efforts that may be underway, but rather to supplement those efforts.

The premise for establishing a national foundation is, in part, to elevate the level of fundraising beyond the local level, supplementing those efforts by seeking donations from potentially large donors. I also want to emphasize the inclusiveness of the Foundation, which will represent all the branches of our armed services.

Mr. President, statistics reveal that foundations established without the mandate of a Federal statute and the backing of an established agency seldom succeed. With ever-diminishing Federal funds, we cannot expect the Department to put our military museums ahead of national security. Truly, an outside source committed to sustaining our museums is imperative. I urge my colleagues to support this important legislation.

By Mr. JEFFORDS:

S. 687. A bill to enhance the benefits of the national electric system by encouraging and supporting State programs for renewable energy sources, universal electric service, affordable electric service, and energy conservation and efficiency, and for other purposes; to the Committee on Energy and Natural Resources.

THE ELECTRIC SYSTEM PUBLIC BENEFITS PROTECTION ACT OF 1997

Mr. JEFFORDS. Mr. President, America is currently considering an extremely important and contentious issue: Should we restructure the system by which we obtain our electric energy? And if so, how should we go about doing this? Hardly a day goes by in which one cannot find a news article on this subject. Across our Nation, 44 States have taken on the issue of restructuring, either in legislative debate or through the implementation of pilot programs. And even here in Congress, there are a number of proposals, in both the House and Senate, which address the various factors affecting the electric industry.

Advocates on all sides are debating whether the Federal Government should direct States to move to a restructured system, both in terms of how they should do it and when.

There are a number of ideas being offered as to whether utilities should be allowed to recover costs that were incurred under a regulated system, and if so, in what manner and to what degree. Who should bear the burden? The rate payer? The tax payer? The share holder?

Arguments have been made for and against Federal protection of public power, both in terms of market power and fiscal subsidies. Must companies divest according to function? Does a municipality's tax exempt bond authority give it an advantage over the tax deferrals of the utility, or the less-than-cost loans to the cooperative?

Mr. President, we continue to hear a great deal about how the effort to restructure the electric power industry may affect the Nation's economy. What is not being discussed, and what I believe is equally important, is how these changes will affect our society as a whole. How will it impact on the Nation's poor? How will it affect our children's health? How will restructuring affect our environment?

Well, it doesn't have to be an either/or choice. In fact, it can't be. As we move towards a restructured industry, we must consider the issues not only in terms of what they mean to our economy, but also in terms of what they mean to our society. We must secure and enhance the public benefits that until now have been provided by the electric industry's unique structure and regulatory traditions. This can only be achieved by including certain safeguards in any new regulatory

structure from the outset, before dramatic changes unravel the gains this industry has made.

I rise today to introduce the Electric System Public Benefits Protection Act of 1997. This bill acknowledges the responsibility we have to our Nation, to its people and to the environment as we reassess the future of the electric power industry. It directly addresses the numerous public benefits we enjoy from our electric power structure, a system that has a unique impact on how we live. And it does this while creating a setting within the electric industry which promotes competition.

Under the system in effect today, electric utilities have been granted franchises in order to serve the public good. In return for a guaranteed return on their investments, the utilities have, to varying degrees of success, implemented many public purpose programs from which we benefit. These initiatives have addressed the need for alternative fuels, assistance to needy and remotely located consumers, energy efficiency projects, and environmental safeguards. While the industry has made significant progress in the past few decades, recent years have seen a steady decline in investments relating to these initiatives. As the electric industry moves closer to competition and deregulation, utilities are becoming less inclined to support public purpose programs without a guaranteed return.

My legislation creates a national electric system public benefits fund to enable and encourage State programs for renewable energy technologies, energy efficiency, low-income assistance, and universal access. It is supported by a broad-based, competitively neutral, systems benefits charge levied as a wires charge on all interconnected generation for sale on the electricity market. Revenues from the fund will be used to match funds raised by the States for the same public purposes and support the continuation and expansion of the benefits we enjoy today.

A study of history divulges two important facts about energy efficiency. The first is that the potential for cost-effective savings from accelerated investments in energy efficiency is very large. Yet trends over the last few years raise serious questions about utilities' commitments to energy efficiency programs. Based on the uncertainty surrounding the change within the industry, many utilities have admitted that they have already cut programs and are planning on reducing or eliminating more. While this uncertainty makes long-term predictions in this area difficult, the Energy Information Administration has projected a 13-percent reduction in direct utility expenditures on energy efficiency programs during the period 1995 until 1999. My bill affords States the opportunity to make necessary investments in efficiency technologies.

The second important fact we have learned is that there exist significant structural and informational market barriers to the deployment of investments in energy efficiency in the absence of targeted programs. My bill will help negotiate these barriers within the industry.

One of the benefits of energy efficiency is that reduced consumption avoids many of the environmental impacts associated with electric generation. The alternative is potentially devastating. In a recent national survey, respondents were advised that changes in how the utility industry operates could lead to further cutbacks in traditional efficiency programs. Seven out of ten Americans, polled across the Nation, stated that they support mandatory investments in energy efficiency, even if it means higher electric rates. They realize that what we invest today may save us billions of dollars during our lifetimes and those of our children.

The loss of public purpose programs will affect one group in particular. For middle class families, the energy crisis of the 1970's is only a memory; for low-income customers, the energy crisis never ended. A recent study in my State of Vermont showed that residential customers in general spend 3.8 percent of their income on energy, while low-income households spend 15 to 20 percent, and in some cases even more. Unaffordable utility costs are a leading cause of loss of housing for low-income families. Yet another study found that visits by individuals from low-income households to emergency rooms increased after periods of severe weather, when those families had to make the choice to heat or eat.

It is also clear that low-income families face greater barriers than other groups of customers to implementing the energy conservation measures I spoke of earlier, measures that would reduce their energy costs. Low-income families are more likely to live in rental property, in which they have neither the right to make major modifications themselves nor the ability to persuade their landlords to make energy conservation investments in their housing. While there are low-income homeowners, their incomes are generally insufficient to fund improvements in energy efficiency. My bill will provide a mechanism to help circumvent many of these barriers.

In considering the impact of restructuring on the Nation's poor, we must also keep in mind that low-income customers are unlikely to be an extremely attractive and highly sought after segment of the electricity market. They are more likely than other customers to have difficulty paying their bills. They are more likely to require payment arrangements and other labor intensive involvement from the utility company. And they are less likely to use large quantities of electricity which might qualify them for volume discounts. We must accept the fact that access to electric power is a necessity in our society. My legislation will help guarantee that everyone has equal access to the benefits of the electric industry. It will target, through the encouragement and development of cooperatives and other market mechanisms, the millions of Americans who are from low-income families, remote rural areas and other groups who lack market power. In short, Mr. President, it ensures that essential services remain affordable and the benefits of competition are available to all utility customers.

We have learned the hard way that the Nation's economic well-being can be put at risk by rapid spikes in world energy prices. Future dislocations could result from fossil fuel supply interruptions or problems associated with nuclear powerplants. History teaches us that a policy of prudent energy diversification is a form of national economic security that is well worth purchasing.

Additionally, renewable energy sources are good for our environment. Every megawatt of electricity generated by a wind turbine displaces another from a fossil fuel source and lessens the environmental impact of the industry.

Yet, the future of renewable energy is in doubt. I would like to direct your attention to this chart. Scientists tell us that, despite the obvious advantages I have cited, the amount of electricity from renewable sources is projected to remain stable at about 2 percent well into the future. My legislation establishes a renewable portfolio standard for all electric generation companies. It begins with 2.5 percent in the year 2000 and slowly grows to 20 percent in the year 2020. These are not arbitrary numbers. They are based on information provided by the electric industry and account for realistic constraints on how fast these sources can develop.

This bill enables States to play an active role in the development and fielding of alternative fuels technology. It recognizes the importance of fuel diversity, and it guarantees that renewable energy sources will play a significant role in this diversification and in providing consumer choice in the restructured industry.

Mr. President, I am particularly concerned about what may be the single greatest market failure of the electric power industry: the protection of our environment. The electric industry accounts for about 3 percent of the Nation's gross domestic product, yet it accounts for up to two-thirds of some of the country's deadliest pollutants. We have worked hard to reduce this problem, and there is no doubt that some success has been achieved. But it is not enough.

Electric powerplants emit 65 percent of the Nation's annual total of sulfur dioxide, an invisible gas that adversely affects our health and environment. Asthmatics are particularly vulnerable to this pollutant. The leading cause of chronic illness in children, cases of this disease are climbing at a sharp rate and are exacerbated by our deteriorating environment.

Sulfur dioxide also is the principal cause of acid rain. This chart illustrates the fact that while the annual emissions of sulfur dioxide are expected to come down slightly in future years, this decline is not sufficient. My bill would cause a dramatic change by the year 2005, decreasing the amount of this deadly gas from electric powerplants by roughly 60 percent.

This next chart reveals the problem this Nation will face in the future as increasing amounts of carbon dioxide are released into the air from the electric industry. Powerplants currently generate close to 40 percent of the nationwide emissions of this pollutant, a gas chiefly responsible for global warming and the creation of a greenhouse effect. The resulting climate change has the potential to inflict devastating damage on our environment for many years, well into the future. Unlike other pollutants, carbon dioxide remains in the atmosphere for decades. If we are to protect our children's future, we must act now. As you can see, my bill, designed to bring the industry back to the 1990 standard, requires a significant 13 percent reduction by the year 2005 and will double that by the year 2015.

This legislation would bring about a major reduction in nitrogen oxide emissions. The electric power industry is the single largest source of this pollutant. Nitrogen oxide emissions are particularly offensive to me as a Vermonter because of the extreme ozone problem they present. There are days now when, standing atop Mount Mansfield, I can not make out the water tower on Mount Elmore, not even 20 miles away. This is disgraceful, and it is a problem faced in many areas across this Nation.

Nitrogen oxides are now blamed for significant health problems as well. Scientists recently discovered that this pollutant may be responsible for increasing levels of cancer cases and breathing disorders. As depicted on this chart, my legislation will mandate a 70 percent reduction in nitrogen oxide emissions from powerplants by the year 2005.

Cognizance of these environmental problems cuts across party lines. A recent poll in the State of Texas shows that 7 out of 10 residents who define themselves as very conservative favor significantly stronger environmental standards. In fact, in the nationwide survey I spoke of earlier, 80 percent of the respondents agreed that we need to act on the problem.

Mr. President, we need to fix the problems attributable to electric power production. But as we move to a restructured industry, we need to fix it in a fair, competitively neutral manner. This bill does just that. Setting a single, nationwide emissions standard for all generators which use combustion devices to produce electricity, it says stop to some of the Nation's dirtiest powerplants. It means we as Americans will no longer tolerate the idea of giving a free ride to those that can't meet the standard. It levels the playing field so that all generators can compete in the market on an equal footing and with the same environmental responsibilities as their competitors.

Finally, we need to give people the information they need to make intelligent choices regarding their electricity. My bill directs the Secretary of Energy to establish a system whereby electric service providers must disclose to the consumer adequate information on generation source, emissions and price. Only when the consumer has the ability to compare can we say we have a truly competitive market.

In closing, I want to emphasize that any restructuring of the Nation's electric power industry must address the economic and the social aspects of the issue. It is not an either/or choice. We must do both.

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. 687

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 "Electric System Public Benefits Protection Act of 1997".

SEC. 2. FINDINGS.

Congress finds that—

(1) the generation of electricity is unique in its combined influence on the Nation's security, environmental quality, and economic efficiency;

(2) the generation and sale of electricity has a direct and profound impact on interstate commerce;

(3) the Federal Government and the States have a joint responsibility for the maintenance of public purpose programs affected by the national electric system;

(4) notwithstanding the public's interest in and enthusiasm for programs that enhance the environment, encourage the efficient use of resources, and provide for affordable and universal service, the investments in those public purposes by existing means continues to decline;

(5) the Nation's dependence on foreign sources of fossil fuels is contrary to our national security; alternative, sustainable energy sources must be pursued as the Nation moves into the 21st century;

(6) emissions from electric power generating facilities are today the largest industrial source responsible for persistent public health and environmental problems; and

(7) consumers have a right to certain information in order to make objective choices on their electric service providers.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.— The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BOARD.—The term "Board" means the National Electric System Public Benefits Board established under section 4.

(3) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) FUND.—The term "Fund" means the National Electric System Public Benefits Fund established by section 5.

(5) RENEWABLE ENERGY.—The term "renewable energy" means electricity generated from wind, organic waste (excluding incinerated municipal solid waste), or biomass or a geothermal, solar thermal, or photovoltaic source.

(6) SECRETARY.—The term "Secretary" means the Secretary of Energy.

SEC. 4. NATIONAL ELECTRIC SYSTEM PUBLIC BENEFITS BOARD.

(a) ESTABLISHMENT.—The Secretary shall establish a National Electric System Public Benefits Board to carry out the functions and responsibilities described in this section.

(b) MEMBERSHIP.—The Board shall be composed of—

(1) 1 representative of the Commission appointed by the Commission;

(2) 2 representatives of the Secretary appointed by the Secretary;

(3) 2 persons nominated by the national organization representing State regulatory commissioners and appointed by the Secretary;

(4) 1 person nominated by the national organization representing State utility consumer advocates and appointed by the Secretary;

(5) 1 person nominated by the national organization representing State energy offices and appointed by the Secretary;

(6) 1 person nominated by the national organization representing energy assistance directors and appointed by the Secretary; and

(7) 1 representative of the Environmental Protection Agency appointed by the Administrator.

(c) CHAIRPERSON.—The Secretary shall select a member of the Board to serve as Chairperson of the Board.

(d) MANAGER.—

(1) APPOINTMENT.—The Board shall by contract appoint an electric systems public benefits manager for a term of not more than 3 years, which term may be renewed by the Board.

(2) COMPENSATION.—The compensation and other terms and conditions of employment of the manager shall be determined by a contract between the Board and the individual or the other entity appointed as manager.

(3) FUNCTIONS.—The manager shall—

(A) monitor the amounts in the Fund;

(B) receive, review, and make recommendations to the Board regarding applications from States under section 5(b); and

(C) perform such other functions as the Board may require to assist the Board in carrying out its duties under this Act.

SEC. 5. NATIONAL ELECTRIC SYSTEM PUBLIC BENEFITS FUND.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Board shall establish an account or accounts at 1 or more financial institutions, which account or accounts shall be known as the "National Electric System Public Benefits Fund", consisting of

amounts deposited in the fund under subsection (c).

(2) STATUS OF FUND.—The wires charges collected under subsection (c) and deposited in the Fund—

(A) shall constitute electric system revenues and shall not constitute funds of the United States;

(B) shall be held in trust by the manager of the Fund solely for the purposes stated in subsection (b); and

(C) shall not be available to meet any obligations of the United States.

(b) USE OF FUND.—

(1) FUNDING OF PUBLIC PURPOSE PROGRAMS.—Amounts in the Fund shall be used by the Board to provide matching funds to States for the support of State public purpose programs relating to—

(A) renewable energy sources;

(B) universal electric service;

(C) affordable electric service;

(D) energy conservation and efficiency; or

(E) research and development in areas described in subparagraphs (A) through (D).

(2) DISTRIBUTION.—

(A) IN GENERAL.—Except for amounts needed to pay costs of the Board in carrying out its duties under this section, the Board shall instruct the manager of the Fund to distribute all amounts in the Fund to States to fund public purpose programs under paragraph (1).

(B) FUND SHARE.—

(i) IN GENERAL.—Subject to clause (iii), the Fund share of a public purpose program funded under paragraph (1) shall be 50 percent.

(ii) PROPORTIONATE REDUCTION.—To the extent that the amount of matching funds requested by States exceeds the maximum projected revenues of the Fund, the matching funds distributed to the States shall be reduced by an amount that is proportionate to each State's annual consumption of electricity compared to the Nation's aggregate annual consumption of electricity.

(iii) ADDITIONAL STATE FUNDING.—A State may apply funds to public purpose programs in addition to the amount of funds applied for the purpose of matching the Fund share.

(3) PROGRAM CRITERIA.—The Board shall recommend eligibility criteria for public benefits programs funded under this section for approval by the Secretary.

(4) APPLICATION.—Not later than August 1 of each year beginning in 1999, a State seeking matching funds for the following year shall file with the Board, in such form as the Board may require, an application—

(A) certifying that the funds will be used for an eligible public purpose program; and

(B) stating the amount of State funds earmarked for the program.

(c) WIRES CHARGE.—

(1) DETERMINATION OF NEEDED FUNDING.—Not later than August 1 of each year, the Board shall determine and inform the Commission of the aggregate amount of wires charges that it will be necessary to have paid into the Fund to pay matching funds to States and pay the operating costs of the Board in the following year.

(2) IMPOSITION OF WIRES CHARGE.—

(A) IN GENERAL.—Not later than December 15 of each year, the Commission shall impose a nonbypassable, competitively neutral wires charge to be paid directly into the Fund by the operator of the wire on electricity carried through the wire, this electricity to be measured as it exits the busbar at a generation facility, and which impacts on interstate commerce.

(B) AMOUNT.—The wires charge shall be set at a rate equal to the lesser of—

(i) 2 mills per kilowatt-hour; or

(ii) a rate that is estimated to result in the collection of an amount of wires charges that is as nearly as possible equal to the amount of needed funding determined under paragraph (1).

(3) DEPOSIT IN THE FUND.—The wires charge shall be paid by the operator of the wire directly into the Fund at the end of each month during the calendar year for distribution by the electric systems public benefits manager under section 4.

(4) PENALTIES.—The Commission may assess against a wire operator that fails to pay a wires charge as required by this subsection a civil penalty in an amount equal to not more than the amount of the unpaid wires charge.

(d) AUDITING.—

(1) IN GENERAL.—The Fund shall be audited annually by a firm of independent certified public accountants in accordance with generally accepted auditing standards.

(2) ACCESS TO RECORDS.—Representatives of the Secretary and the Commission shall have access to all books, accounts, reports, files, and other records pertaining to the Fund as necessary to facilitate and verify the audit.

(3) REPORTS.—

(A) IN GENERAL.—A report on each audit shall be submitted to the Secretary, the Commission, and the Secretary of the Treasury, who shall submit the report to the President and Congress not later than 180 days after the close of the fiscal year.

(B) REQUIREMENTS.—An audit report shall—

(i) set forth the scope of the audit; and

(ii) include—

(I) a statement of assets and liabilities, capital; and surplus or deficit;

(II) a statement of surplus or deficit analysis;

(III) a statement of income and expenses;

(IV) any other information that may be considered necessary to keep the President and Congress informed of the operations and financial condition of the Fund; and

(V) any recommendations with respect to the Fund that the Secretary or the Commission may have.

SEC. 6. RENEWABLE ENERGY PORTFOLIO STANDARDS.

(a) DEFINITION OF GENERATION FACILITY.—In this section, the term "covered generation facility" means a nonhydroelectric facility that generates electric energy for sale.

(b) REQUIRED RENEWABLE ENERGY.—Of the total amount of electricity sold by covered generation facilities during a calendar year, the amount generated by renewable energy sources shall be not less than—

(1) 2.5 percent in 2000;

(2) 3.0 percent in 2001;

(3) 3.5 percent in 2002;

(4) 4.0 percent in 2003;

(5) 4.5 percent in 2004;

(6) 5.0 percent in 2005;

(7) 6.0 percent in 2006;

(8) 7.0 percent in 2007;

(9) 8.0 percent in 2008;

(10) 9.0 percent in 2009;

(11) 10.0 percent in 2010;

(12) 11.0 percent in 2011;

(13) 12.0 percent in 2012;

(14) 13.0 percent in 2013;

(15) 14.0 percent in 2014;

(16) 15.0 percent in 2015;

(17) 16.0 percent in 2016;

(18) 17.0 percent in 2017;

(19) 18.0 percent in 2018;

(20) 19.0 percent in 2019; and

(21) 20.0 percent in 2020 and each year thereafter.

(c) RENEWABLE ENERGY CREDITS.—

(1) IDENTIFICATION OF ENERGY SOURCES.—The Commission shall establish standards and procedures under which a covered generation facility shall certify to a purchaser of electricity—

(A) the amount of the electricity that is generated by a renewable energy source; and

(B) the amount of the electricity that is generated by a source other than a renewable energy source.

(2) ISSUANCE OF RENEWABLE ENERGY CREDITS.—Not later than April 1 of each year, beginning in the year 2001, the Commission shall issue to a covered generation facility 1 renewable energy credit for each megawatt-hour of electricity sold by the covered generation facility in the preceding calendar year that was generated by a renewable source.

(3) SUBMISSION OF RENEWABLE ENERGY CREDITS.—Not later than July 1 of each year, a covered generation facility shall submit credits to the Commission in an amount equal to the total number of megawatt-hours of electricity sold by the covered generation facility in the preceding year multiplied by the applicable renewable energy source requirement under subsection (a).

(4) USE OF RENEWABLE ENERGY CREDITS.—

(A) TIME FOR USE.—A renewable energy credit shall be used for the calendar year for the renewable energy credit is issued.

(B) PERMITTED USES.—Until July 1 of the year in which a renewable energy credit was issued, a covered generation facility may—

(i) use the renewable energy credit to make a submission to the Commission under paragraph (3); or

(ii) on notice to the Commission, sell or otherwise transfer a renewable energy credit to another covered generation facility.

(d) RECORDKEEPING.—The Commission shall maintain records of all renewable energy credits issued and all credits sold or exchanged.

(e) PENALTIES.—The Commission may bring an action in United States district court to impose a civil penalty on any person that fails to comply with subsection (a). A person that fails to comply with a requirement to submit renewable energy credits under subsection (b)(3) shall be subject to a civil penalty of not more than 3 times the estimated national average market value (as determined by the Commission) for the calendar year concerned of that quantity of renewable energy credits.

(f) PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978.—

(1) REPEAL OF COGENERATION AND SMALL POWER PRODUCTION PROVISION.—Effective January 1, 2000, the Public Utility Regulatory Policies Act of 1978 is amended by striking section 210 (16 U.S.C. 824a-3).

(2) EXISTING CONTRACTS.—The amendment made by paragraph (1) shall not affect the continued validity and enforceability of contracts entered into under section 210 of the Public Utility Regulatory Policies Act of 1978 before the date of enactment of this Act.

(3) CONTINUED JURISDICTION.—Notwithstanding the amendment made by paragraph (1), the Commission shall retain jurisdiction to—

(A) ensure the continued status of qualifying small power production facilities under section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a-3); and

(B) continue exemptions granted under subsection (e) of that section before the date of enactment of this Act.

(g) POWERS.—The Commission may promulgate such regulations, conduct such investigations, and take such other actions as

are necessary or appropriate to implement and obtain compliance with this section and regulations promulgated under this section.

SEC. 7. EMISSIONS STANDARDS AND ALLOCATIONS.

(a) DEFINITIONS.—In this section:

(1) COVERED GENERATION FACILITY.—The term "covered generation facility" means an electric generation facility (other than a nuclear facility) with a nameplate capacity of 15 megawatts or greater that uses a combustion device to generate electricity for sale.

(2) COGENERATION.—The term "cogeneration" means a process of simultaneously generating electricity and thermal energy in which a portion of the energy value of fuel consumed is recovered as heat that is used to meet heating or cooling loads outside the generation facility.

(3) POLLUTANT.—The term "pollutant" means—

(A) nitrogen oxide;

(B) sulfur dioxide;

(C) carbon dioxide;

(D) mercury; or

(E) any other substance that the Administrator may identify by regulation as a substance the emission of which into the air from a combustion device used in the generation of electricity endangers public health or welfare.

(b) NATIONWIDE EMISSIONS STANDARDS.—

(1) SCHEDULE.—Not later than July 1, 1999, the Administrator shall promulgate a final regulation that establishes a schedule of limits on the amount of each pollutant that all covered generation facilities in the aggregate nationwide shall be permitted to emit in each calendar year beginning in calendar year 2000.

(2) LIMIT.—The nationwide emissions standard for calendar year 2005 and each year thereafter established under paragraph (1) shall be not greater than—

(A) for nitrogen oxide, 1,660,000 tons;

(B) for sulfur dioxide, 3,580,000 tons; and

(C) for carbon dioxide, 1,914,000,000 tons.

(3) ADJUSTMENT.—The Administrator may adjust the schedule established under paragraph (1), within the limits established by paragraph (2), if the Administrator determines that an adjustment would be in the best interests of the public health and welfare.

(c) GENERATION PERFORMANCE STANDARD.—

(1) ANNUAL DETERMINATION.—

(A) IN GENERAL.—Not later than October 1 of each year, the Administrator, in consultation with the Commission, shall determine the generation performance standard for nitrogen oxide, sulfur dioxide, and carbon dioxide emissions per megawatt-hour of electric production by covered generation facilities for the next calendar year.

(B) METHOD.—The Administrator shall determine by regulation the method to be used in determining an estimate under subparagraph (A).

(2) FORMULA.—The generation performance standard shall be determined by dividing the annual nationwide emissions standard as established under subsection (b) by the Administrator's estimate of the nationwide megawatt-hour production for the next calendar year by all covered generation facilities.

(d) INDIVIDUAL EMISSIONS ALLOCATION.—The amount of each pollutant that a covered generation facility shall be permitted to emit during a calendar year shall be equal to—

(1) the facility's annual generation of megawatt-hours of electricity multiplied by the generation performance standard as established in subsection (c); plus

(2) the facility's annual generation of thermal energy used to meet heating and cooling loads resulting from the cogeneration process, which shall be expressed by the Administrator in units of measurement that provide a reasonable comparison between energy generated in the form of electricity and energy generated in the form of thermal energy and then multiplied by the generation performance standard as established under subsection (c).

(e) OZONE SEASON.—In determining the individual emissions allocation for a covered generation facility under subsection (d), the amount of nitrogen oxide emitted by covered generation facility and the number of megawatt-hours of electricity generated by the covered generation facility during the period May 1 through September 30 of each year shall each be multiplied by 3.

(f) MONITORING.—

(1) ESTABLISHMENT OF SYSTEM.—The Administrator shall establish a system for the accurate monitoring of the amount of each pollutant that a covered generation facility emits during a year.

(2) REQUIREMENTS.—The monitoring system under paragraph (1) shall require—

(A) installation on each combustion device of a continuous monitoring system for each pollutant; or

(B) use of an alternative mechanism that the Administrator determines will provide data with precision, reliability, accessibility, and timeliness that are equal to or greater than those that would be achieved by a continuous emissions monitoring system.

(g) EMISSIONS CREDITS.—

(1) COMPARISON OF ACTUAL COMBUSTION DEVICE OUTPUTS WITH INDIVIDUAL EMISSION ALLOCATIONS.—At the end of each year, the Administrator shall compare the amount of a pollutant emitted by a generation facility during the year with the individual emissions allocation as established under subsection (d) applicable to the covered generation facility for the year.

(2) ISSUANCE OF EMISSIONS CREDITS.—Not later than April 1 of each year, the Administrator shall issue to a covered generation facility 1 emissions credit for each ton by which the amount of a pollutant emitted by the covered generation facility during the preceding year was less than the individual emissions allocation as established under subsection (d) applicable to the covered generation facility.

(3) SUBMISSION OF EMISSIONS CREDITS.—

(A) IN GENERAL.—Not later than July 1 of each year, a covered generation facility that emitted a greater amount of a pollutant than the individual emissions allocation applicable to the covered generation facility during the preceding year shall submit to the Administrator 1 emissions credit for each ton by which the amount of the pollutant emitted was greater than the individual emissions allocation as established under subsection (d).

(B) PENALTY.—A covered generation facility that is required to submit an emissions credit under subparagraph (A) that fails to submit the emissions credit shall pay to the Administrator a civil penalty in an amount equal to—

(i) $15,000 for each ton of nitrogen oxide emissions in excess of the individual emissions allocation applicable to the facility under subsection (d) for which a nitrogen oxide emissions credit has not been submitted under subparagraph (A);

(ii) $2,500 for each ton of sulfur dioxide emissions in excess of the individual emissions allocation applicable to the facility under subsection (d) for which a sulfur dioxide emissions credit has not been submitted under subparagraph (A); or

(iii) $100 for each ton of carbon dioxide emissions in excess of the individual emissions allocation applicable to the facility under subsection (d) for which a carbon dioxide emissions credit has not been submitted under subparagraph (A).

(C) PENALTY ADJUSTMENT.—The Administrator shall annually adjust the penalty specified in subparagraph (B) for inflation based on the Consumer Price Index.

(4) USE OF EMISSIONS CREDITS.—A covered generation facility may—

(A) retain an emissions credit from year to year for future submission to the Administrator under paragraph (3); or

(B) on notice to the Administrator, sell or otherwise transfer an emissions credit to another person.

(h) POWERS.—The Administrator may promulgate such regulations, conduct such investigations, and take such other actions as are necessary to appropriate to implement and obtain compliance with this section and regulations promulgated under this section.

SEC. 8. DISCLOSURE REQUIREMENTS.

(a) DEFINITIONS.—In this section:

(1) EMISSIONS DATA.—The term "emissions data" means the type and amount of each pollutant (as defined in section 7(a)) emitted by a generation facility in generating electricity.

(2) GENERATION DATA.—The term "generation data" means the type of fuel (such as coal, oil, nuclear energy, or solar power) used by a generation facility to generate electricity.

(b) DISCLOSURE SYSTEM.—The Secretary shall establish a system of disclosure that—

(1) enables retail consumers to knowledgeably compare retail electric service offerings, including comparisons based on generation source portfolios, emissions data, and price terms; and

(2) considers such factors as—

(A) cost of implementation;

(B) confidentiality of information; and

(C) flexibility.

(c) REGULATION.—Not later than March 1, 1999, the Secretary, in consultation with the Board, and with the assistance of a Federal interagency task force that includes representatives of the Commission, the Federal Trade Commission, the Food and Drug Administration, and the Environmental Protection Agency, shall promulgate a regulation prescribing—

(1) the form, content, and frequency of disclosure of emissions data and generation data of electricity by generation facilities to electricity wholesalers or retail companies and by wholesalers to retail companies;

(2) the form, content, and frequency of disclosure of emissions data, generation data, and the price of electricity by retail companies to ultimate consumers; and

(3) the form, content, and frequency of disclosure of emissions data, generation data, and the price of electricity by generation facilities selling directly to ultimate consumers.

(d) ACCESS TO RECORDS.—The Secretary shall have full access to the records of all generation facilities, electricity wholesalers, and retail companies to obtain any information necessary to administer and enforce this section.

(e) FAILURE TO DISCLOSE.—The failure of a retail company to accurately disclose information as required by this section shall be treated as a deceptive act in commerce under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(f) REGULATIONS.—The Secretary may promulgate such regulations, conduct such investigations, and take such other actions as are necessary or appropriate to implement and obtain compliance with this section and regulations promulgated under this section.

By Mr. BIDEN (by request):

S. 688. A bill to amend the Higher Education Act of 1965 to authorize Presidential Honors Scholarships to be awarded to all students who graduate in the top 5 percent of their secondary school graduating class, to promote and recognize high academic achievement in secondary school, and for other purposes; to the Committee on Labor and Human Resources.

THE PRESIDENTIAL HONORS SCHOLARSHIP ACT OF 1997

• Mr. BIDEN. Mr. President, I am pleased today to reintroduce President Clinton's proposal, the Presidential Honors Scholarship Act of 1997. I first introduced this bill on behalf of the administration last September—and I have included a very similar proposal in my own comprehensive higher education legislation, known as the Get Ahead Act. I am honored to have the opportunity to reintroduce this measure for the President, who continues his endless efforts at improving American education and making sure that college is affordable to all Americans.

Most people are probably not familiar with Presidential Honors Scholarships, but I think many people have heard of the idea of merit scholarships. It is pretty simple. Under the bill, all students in public and private schools who graduate in the top 5 percent of their class would be designated as Presidential honors scholars and would receive a $1,000 scholarship to college. The scholarship could be used during their freshman year at the college of their choice, and the scholarship would not be used in determining eligibility for other financial aid.

I strongly support merit scholarships for two reasons. First, we need to start rewarding excellence in educational achievement. Under the leadership of President Clinton, 4 years ago Congress passed legislation that encourages States to set high academic standards for their students. This proposal builds on that idea by rewarding those students who meet those high standards. Students who work hard and succeed ought to be recognized and rewarded.

Second, by providing scholarship moneys, this bill will help thousands of students in paying for the costs of a college education, which, I might add, is becoming more and more difficult for middle-class families. I realize that $1,000 does not go a long way in paying for a public college education, not to mention the costs of a private college. But, it will be of some help, and for those who choose to go to a community college, it will pay for about two-thirds of the cost.

Mr. President, I suspect that we will be debating higher education more than once this year. There is much to be done. We need to provide a tax deduction for the costs of college. We should allow penalty-free withdrawals from Individual Retirement Accounts to pay for college. We should make permanent the employer-provided education tax exclusion. We need to expand the Pell Grant Program. And, we need to reauthorize the Higher Education Act.

In that process, however, let us not forget merit scholarships. It is not the answer, but it is part of the answer. It is a piece of the puzzle. And while some would say that it is a small piece, it plays an important role in being the one piece that rewards those students who reach for excellence.

I look forward to working with my colleagues and with President Clinton in seeing that this proposal becomes law.•

By Mr. BREAUX (for himself, Mr. COCHRAN, Mr. CONRAD, Mr. DORGAN, Ms. MOSELEY-BRAUN, Mr. REID, Mr. ROCKEFELLER, Mr. DASCHLE, and Mr. ROBB):

S. 690. A bill to amend title XVIII of the Social Security Act to improve preventive benefits under the Medicare Program; to the Committee on Finance.

THE COLORECTAL CANCER SCREENING ACT OF 1997

Mr. BREAUX. Mr. President, I rise today to introduce the Colorectal Cancer Screening Act of 1997 with my colleagues Senators COCHRAN, CONRAD, DORGAN, MOSELEY-BRAUN, REID, and ROCKEFELLER.

Let me share some tragic facts about colorectal cancer. According to the American Cancer Society, colorectal cancer is the second most deadly cancer based on the number of annual deaths. While breast cancer primarily afflicts women and prostate cancer is a disease of men, colorectal cancer strikes both men and women of all races, resulting in the high number of patients and the corresponding high number of deaths.

This year alone, 140,000 Americans will be diagnosed with colon cancer and 54,000 Americans will die from the disease. In my own State of Louisiana, 2,200 new cases of colon cancer will be diagnosed this year and it will take the lives of 920 people. Yet, as is the case with most cancers, colon cancer is preventable and curable if detected early.

The tragedy of colorectal cancer is that physicians have proven means to detect colorectal cancer early but these tests must be made available to people on a widespread basis. Death from this terrible disease can be reduced significantly by early detection. We know polyps, the initial presentation of early cancers, if detected early can be treated without major surgery while expensive, major surgery in a hospital is the only successful treatment for more advanced cancers.

While many private health plans are starting to provide coverage for colorectal cancer screening, Medicare—which covers older Americans who are most at risk—does not. The Colorectal Cancer Screening Act of 1997 would make colorectal cancer screening available to Medicare beneficiaries to improve the chance for early detection and diagnosis.

The type and frequency of screening I suggest in my bill are compatible with the recommendations of several large physician groups as well as the American Cancer Society. It covers all the procedures that are currently used today but the type of screening process will depend on the patient's risk factors for colon cancer. Patients at higher risk, for example someone whose parent had colon cancer, receive more aggressive screening than someone with a normal risk for colon cancer.

Mr. President, this legislation is not procedure specific. Although several screening tests for colorectal cancer are currently available, the best method for early detection has not been determined. Some tests are very simple and can be performed by any doctor. Others, such as barium enema and colonoscopy, are technically more difficult and require special equipment and facilities. Some tests only evaluate part of the colon.

My bill basically recognizes that we need to start screening people right away. The Congress should not prevent seniors from getting screened because there is disagreement over which procedures are best. That is a decision best made by doctors, not the Congress. This bill would mandate that seniors on Medicare have access to all the screening methods currently used by doctors. In 2 years, the Secretary of Health and Human Services will report back to Congress on which tests are the best and most cost-effective means of detecting colon cancer. If it is determined that a procedure is being used that is not effective, Medicare will no longer cover it. HHS will also study the needs of African-Americans who are at high risk for colon cancer and have a higher mortality rate. It makes much more sense for the experts in colon cancer, not the Congress, to determine the best, most cost-effective screening techniques all the while making this important service available immediately to Medicare beneficiaries.

This kind of preventive tool is critical in our battle against colon cancer. It will improve the quality of life for Medicare beneficiaries and save Medicare money in the long run by reducing the high costs of treating advanced colorectal cancer.

I encourage my colleagues to join me in supporting passage of this legislation this Congress. I ask unanimous consent that a copy of the bill appear in the RECORD.

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

S. 690

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 "Colorectal Cancer Screening Act of 1997".

SEC. 2. MEDICARE COVERAGE OF COLORECTAL SCREENING SERVICES.

(a) COVERAGE.—

(1) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraphs (N) and (O); and

(ii) by inserting after subparagraph (O) the following:

"(P) colorectal cancer screening tests (as defined in subsection (oo)); and"; and

(B) by adding at the end the following:

"Colorectal Cancer Screening Tests

"(oo)(1) The term 'colorectal cancer screening test' means, unless determined otherwise pursuant to section 2(a)(2) of the Colorectal Cancer Screening Act of 1997, any of the following procedures furnished to an individual for the purpose of early detection of colorectal cancer:

"(A) Screening fecal-occult blood test.

"(B) Screening flexible sigmoidoscopy.

"(C) Screening barium enema.

"(D) In the case of an individual at high risk for colorectal cancer, screening colonoscopy or screening barium enema.

"(E) For years beginning after 2002, such other procedures as the Secretary finds appropriate for the purpose of early detection of colorectal cancer, taking into account changes in technology and standards of medical practice, availability, effectiveness, costs, the particular screening needs of racial and ethnic minorities in the United States and such other factors as the Secretary considers appropriate.

"(2) In paragraph (1)(D), an 'individual at high risk for colorectal cancer' is an individual who, because of family history, prior experience of cancer or precursor neoplastic polyps, a history of chronic digestive disease condition (including inflammatory bowel disease, Crohn's Disease, or ulcerative colitis), the presence of any appropriate recognized gene markers for colorectal cancer, or other predisposing factors, faces a high risk for colorectal cancer.".

(2) REVIEW OF COVERAGE OF COLORECTAL CANCER SCREENING TESTS.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act (and periodically thereafter), the Secretary of Health and Human Services (in this paragraph referred to as the "Secretary") shall review—

(i) the standards of medical practice with regard to colorectal cancer screening tests (as defined in section 1861(oo) of the Social Security Act (42 U.S.C. 1395x(oo))) (as added by paragraph (1) of this section);

(ii) the availability, effectiveness, costs, and cost-effectiveness of colorectal cancer screening tests covered under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) at the time of such review;

(iii) the particular screening needs of racial and ethnic minorities in the United States; and

(iv) such other factors as the Secretary considers appropriate with regard to the coverage of colorectal cancer screening tests under the medicare program.

(B) DETERMINATION.—If the Secretary determines it appropriate based on the review conducted pursuant to subparagraph (A), the Secretary shall issue and publish a determination that one or more colorectal cancer screening tests described in section 1861(oo) of the Social Security Act (42 U.S.C. 1395x(oo)) (as added by paragraph (1) of this section) shall no longer be covered under that section.

(b) FREQUENCY AND PAYMENT LIMITS.—

(1) IN GENERAL.—Section 1834 of the Social Security Act (42 U.S.C. 1395m) is amended by inserting after subsection (c) the following:

"(d) FREQUENCY AND PAYMENT LIMITS FOR COLORECTAL CANCER SCREENING TESTS.—

"(1) SCREENING FECAL-OCCULT BLOOD TESTS.—

"(A) PAYMENT LIMIT.—In establishing fee schedules under section 1833(h) with respect to colorectal cancer screening tests consisting of screening fecal-occult blood tests, except as provided by the Secretary under paragraph (5)(A), the payment amount established for tests performed—

"(i) in 1998 shall not exceed $5; and

"(ii) in a subsequent year, shall not exceed the limit on the payment amount established under this subsection for such tests for the preceding year, adjusted by the applicable adjustment under section 1833(h) for tests performed in such year.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (5)(B), no payment may be made under this part for colorectal cancer screening test consisting of a screening fecal-occult blood test—

"(i) if the individual is under 50 years of age; or

"(ii) if the test is performed within the 11 months after a previous screening fecal-occult blood test.

"(2) SCREENING FOR INDIVIDUALS NOT AT HIGH RISK.—Subject to revision by the Secretary under paragraph (5)(B), no payment may be made under this part for a colorectal cancer screening test consisting of a screening flexible sigmoidoscopy or screening barium enema—

"(i) if the individual is under 50 years of age; or

"(ii) if the procedure is performed within the 47 months after a previous screening flexible sigmoidoscopy or screening barium enema.

"(3) SCREENING FOR INDIVIDUALS AT HIGH RISK FOR COLORECTAL CANCER.—Subject to revision by the Secretary under paragraph (5)(B), no payment may be made under this part for a colorectal cancer screening test consisting of a screening colonoscopy or screening barium enema for individuals at high risk for colorectal cancer if the procedure is performed within the 23 months after a previous screening colonoscopy or screening barium enema.

"(4) PAYMENT AMOUNTS FOR CERTAIN COLORECTAL CANCER SCREENING TESTS.—The Secretary shall establish payment amounts under section 1848 with respect each colorectal cancer screening tests described in subparagraphs (B), (C), and (D) of section 1861(oo)(1) that are consistent with payment amounts under such section for similar or related services, except that such payment amount shall be established without regard to section 1848(a)(2)(A).

"(5) REDUCTIONS IN PAYMENT LIMIT AND REVISION OF FREQUENCY.—

"(A) REDUCTIONS IN PAYMENT LIMIT FOR SCREENING FECAL-OCCULT BLOOD TESTS.—The Secretary shall review from time to time the appropriateness of the amount of the payment limit established for screening fecal-occult blood tests under paragraph (1)(A). The Secretary may, with respect to tests performed in a year after 2000, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that such tests of an appropriate quality are readily and conveniently available during the year.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary shall review periodically the appropriate frequency for performing colorectal cancer screening tests based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests may be paid for under this subsection, but no such revision shall apply to tests performed before January 1, 2001.

"(6) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of a colorectal cancer screening test consisting of a screening flexible sigmoidoscopy or screening barium enema, or a screening colonoscopy or screening barium enema provided to an individual at high risk for colorectal cancer for which payment may be made under this part, if a nonparticipating physician provides the procedure to an individual enrolled under this part, the physician may not charge the individual more than the limiting charge (as defined in section 1848(g)(2)).

"(B) ENFORCEMENT.—If a physician or supplier knowingly and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraphs (1)(D) and (2)(D) of section 1833(a) of the Social Security Act (42 U.S.C. 1395l(a)) are each amended by inserting "or section 1834(d)(1)" after "subsection (h)(1)".

(2) Section 1833(h)(1)(A) of the Social Security Act (42 U.S.C. 1395l(h)(1)(A)) is amended by striking "The Secretary" and inserting "Subject to paragraphs (1) and (5)(A) of section 1834(d), the Secretary".

(3) Clauses (i) and (ii) of section 1848(a)(2)(A) of the Social Security Act (42 U.S.C. 1395w-4(a)(2)(A)) are each amended by inserting after "a service" the following: "(other than a colorectal cancer screening test consisting of a screening colonoscopy or screening barium enema provided to an individual at high risk for colorectal cancer or a screening flexible sigmoidoscopy or screening barium enema)".

(4) Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (E), by striking "and" at the end;

(ii) in subparagraph (F), by striking the semicolon at the end and inserting ", and"; and

(iii) by adding at the end the following:

"(G) in the case of colorectal cancer screening tests, which are performed more frequently than is covered under section 1834(d);"; and

(B) in paragraph (7), by striking "paragraph (1)(B) or under paragraph (1)(F)" and inserting "subparagraph (B), (F), or (G) of paragraph (1)".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to items and services furnished on or after January 1, 1998.

ADDITIONAL COSPONSORS

S. 65

At the request of Mr. HATCH, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 65, a bill to amend the Internal Revenue Code of 1986 to ensure that members of tax-exempt organizations are notified of the portion of their dues used for political and lobbying activities, and for other purposes.

S. 293

At the request of Mr. HATCH, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 293, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions.

S. 356

At the request of Mr. GRAHAM, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVIII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs.

S. 377

At the request of Mr. BURNS, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 377, a bill to promote electronic commerce by facilitating the use of strong encryption, and for other purposes.

S. 385

At the request of Mr. CONRAD, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 385, a bill to provide reimbursement under the medicare program for telehealth services, and for other purposes.

S. 389

At the request of Mr. ABRAHAM, the names of the Senator from Minnesota [Mr. GRAMS] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 389, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.

S. 394

At the request of Mr. HATCH, the names of the Senator from Virginia [Mr. ROBB], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 394, a bill to partially restore compensation levels to their past equivalent in terms of real income and establish the procedure for adjusting future compensation of justices and judges of the United States.

S. 609

At the request of Mr. KENNEDY, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 609, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for reconstructive breast surgery if they provide coverage for mastectomies.

S. 627

At the request of Mr. JEFFORDS, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 627, a bill to reauthorize the African Elephant Conservation Act.

SENATE JOINT RESOLUTION 25

At the request of Mr. COCHRAN, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 25, a joint resolution disapproving the rule of the Occupational Safety and Health Administration relating to occupational exposure to methylene chloride.

SENATE RESOLUTION 19

At the request of Mr. MOYNIHAN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Resolution 19, a resolution expressing the sense of the Senate regarding United States opposition to the prison sentence of Tibetan ethnomusicologist Ngawang Choephel by the Government of the People's Republic of China.

SENATE RESOLUTION 79

At the request of Mr. KEMPTHORNE, the names of the Senator from Nevada [Mr. REID] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Resolution 79, a resolution to commemorate the 1997 National Peace Officers Memorial Day.

AMENDMENTS SUBMITTED

THE VOLUNTEER PROTECTION ACT OF 1997

COVERDELL (AND OTHERS) AMENDMENT NO. 53

Mr. COVERDELL (for himself, Mr. LEAHY, Mr. ASHCROFT, Mr. MCCONNELL, Mr. ABRAHAM, and Mr. SANTORUM) proposed an amendment to the bill (S. 543) to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Volunteer Protection Act of 1997".

SEC. 2. FINDINGS AND PURPOSE.

The Congress finds and declares that—

(1) the willingness of volunteers to offer their services is deterred by the potential for liability actions against them;

(2) as a result, many nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, and other civic programs, have been adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs than would be obtainable if volunteers were participating;

(4) because Federal funds are expended on useful and cost-effective social service programs, many of which are national in scope, depend heavily on volunteer participation, and represent some of the most successful public-private partnerships, protection of volunteerism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal legislation;

(5) services and goods provided by volunteers and nonprofit organizations would often otherwise be provided by private entities that operate in interstate commerce;

(6) due to high liability costs and unwarranted litigation costs, volunteers and nonprofit organizations face higher costs in purchasing insurance, through interstate insurance markets, to cover their activities; and

(7) clarifying and limiting the liability risk assumed by volunteers is an appropriate subject for Federal legislation because—

(A) of the national scope of the problems created by the legitimate fears of volunteers about frivolous, arbitrary, or capricious lawsuits;

(B) the citizens of the United States depend on, and the Federal Government expends funds on, and provides tax exemptions and other consideration to, numerous social programs that depend on the services of volunteers;

(C) it is in the interest of the Federal Government to encourage the continued operation of volunteer service organizations and contributions of volunteers because the Federal Government lacks the capacity to carry out all of the services provided by such organizations and volunteers; and

(D)(i) liability reform for volunteers will promote the free flow of goods and services, lessen burdens on interstate commerce and uphold constitutionally protected due process rights; and

(ii) therefore, liability reform is an appropriate use of the powers contained in article 1, section 8, clause 3 of the United States Constitution, and the fourteenth amendment to the United States Constitution.

(b) PURPOSE.—The purpose of this Act is to promote the interests of social service program beneficiaries and taxpayers and to sustain the availability of programs, nonprofit organizations, and governmental entities that depend on volunteer contributions by reforming the laws to provide certain protections from liability abuses related to volunteers serving nonprofit organizations and governmental entities.

SEC. 3. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

(a) PREEMPTION.—This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to volunteers or to any category of volunteers in the performance of

services for a nonprofit organization or governmental entity.

(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This Act shall not apply to any civil action in a State court against a volunteer in which all parties are citizens of the State if such State enacts a statute in accordance with State requirements for enacting legislation—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply, as of a date certain, to such civil action in the State; and

(3) containing no other provisions.

SEC. 4. LIMITATION ON LIABILITY FOR VOLUNTEERS.

(a) LIABILITY PROTECTION FOR VOLUNTEERS.—Except as provided in subsections (b) and (d), no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if—

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

(A) possess an operator's license; or

(B) maintain insurance.

(b) CONCERNING RESPONSIBILITY OF VOLUNTEERS TO ORGANIZATIONS AND ENTITIES.—Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) NO EFFECT ON LIABILITY OF ORGANIZATION OR ENTITY.—Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) EXCEPTIONS TO VOLUNTEER LIABILITY PROTECTION.—If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(4) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(e) LIMITATION ON PUNITIVE DAMAGES BASED ON THE ACTIONS OF VOLUNTEERS.—

(1) GENERAL RULE.—Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) CONSTRUCTION.—Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(f) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—

(1) IN GENERAL.—The limitations on the liability of a volunteer under this Act shall not apply to any misconduct that—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(C) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(D) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(E) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to effect subsection (a)(3) or (e).

SEC. 5. LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In any civil action against a volunteer, based on an action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity, the liability of the volunteer for noneconomic loss shall be determined in accordance with subsection (b).

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant who is a volunteer shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant who is a volunteer under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) ECONOMIC LOSS.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) HARM.—The term "harm" includes physical, nonphysical, economic, and noneconomic losses.

(3) NONECONOMIC LOSSES.—The term "noneconomic losses" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

(4) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or

(B) any not-for-profit organization organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes.

(5) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) VOLUNTEER.—The term "volunteer" means an individual performing services for a nonprofit organization or a governmental entity who does not receive—

(A) compensation (other than reasonable reimbursement or allowance for expenses actually incurred); or

(B) any other thing of value in lieu of compensation,

in excess of $500 per year, and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect 90 days after the date of enactment of this Act.

(b) APPLICATION.—This Act applies to any claim for harm caused by an act or omission of a volunteer where that claim is filed on or after the effective date of this Act, without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the benefit of Members and the public that the time that the Committee on Energy and Natural Resources has scheduled for a hearing to receive testimony on S. 430, the New Mexico Statehood and Enabling Act Amendments of 1997 has been changed.

The hearing will now take place on Monday, May 5, 1997, at 10:30 a.m. in room SD–366 of the Dirksen Senate Office Building.

Those wishing to testify or submit written statements for the record should contact James Beirne, senior counsel to the committee or Betty Nevitt, staff assistant, or write the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR–301, Russell Senate Office Building, on Thursday, May 8, 1997, at 9:30 a.m. to consider revisions to Title 44/GPO.

For further information concerning this hearing, please contact Eric Peterson.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to receive testimony regarding S. 417, a bill to extend energy conservation programs under the Energy Policy and Conservation Act through September 30, 2002, S. 416, a bill to amend the Energy Policy and Conservation Act to extend the expiration dates of existing authorities and enhance U.S. participation in the energy emergency program of the International Energy Agency, S. 186, a bill to amend the Energy Policy and Conservation Act with respect to purchases from the Strategic Petroleum Reserve by entities in the insular areas of the United States, and for other purposes, and the energy security of the United States of America.

The hearing will take place on Tuesday, May 13, 1997, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Karen Hunsicker, counsel or Betty Nevitt, staff assistant.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, May 1, 1997, at 9:30 a.m. on pending committee business.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, May 1, for purposes of conducting a hearing before the Subcommittee on National Parks, Historic Preservation, & Recreation which is scheduled to begin at 2 p.m. The purpose of this hearing is to consider S. 357, a bill to authorize the Bureau of Land Management to manage the Grand Staircase-Escalante National Monument.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 1, 1997, at 2 p.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, May 1, at 10 a.m. for a hearing on DOD at risk.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Thursday, May 1, 1997 at 2 p.m. for a hearing on "National Missile Defense and the ABM Treaty".

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

COMMITTEE ON THE JUDICIARY

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, May 1, 1997, at 10 a.m.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a Public Health and Safety Subcommittee hearing on "Biomedical Research priorities: Who Should Decide?" during the session of the Senate on Thursday, May 1, 1997, at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 1, 1997, at 2 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND REGULATORY RELIEF

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Financial Institutions and Regulatory Relief of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, May 1, 1997, to conduct an oversight hearing on the Office of the Comptroller of the Currency.

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

SUBCOMMITTEE ON IMMIGRATION

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Immigration, of the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, May 1, 1997, at 11:30 a.m. to hold a hearing on "Immigration and Naturalization Service Oversight: The Criminal Record Verification Process for Citizenship Applicants."

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

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 1, 1997, at 10 a.m. to hold a hearing.

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

SUBCOMMITTEE ON READINESS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, May 1, 1997, in open session, to receive testimony on Department of Defense depot maintenance privatization initiatives in review of S. 450, the National Defense Authorization Act for Fiscal Years 1998 and 1999.

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

ADDITIONAL STATEMENTS

TRIBUTE TO MIDDLEBURY COLLEGE

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Middlebury College and its student production of "The Last Supper Restoration." This group of fine arts students will be one of eight participating in this year's American College Theater Festival at the John F. Kennedy Center for Performing Arts from April 14 to April 22, 1997. The production was chosen from among 900 presented on campuses throughout the United States in 1996.

The student playwright, Michael Kanin, was presented with the National Student Playwriting Award and has been recognized for his tremendous efforts by the Association for Theatre in

Higher Education. The students' work is in the finest tradition of Vermont and truly represent the creative spirit of our Green Mountain State.

This accomplishment is testimony to the outstanding education and diverse opportunities provided by a true center of excellence, Middlebury College. Once again, I would like to extend my best wishes and congratulations to the Middlebury College thespians.●

TRIBUTE TO ELIZABETH O'DONNELL

● Mr. MOYNIHAN. Mr. President, I rise today to pay tribute to a very special American, Ms. Elizabeth O'Donnell of Kenmore, NY. I am proud to announce that Ms. O'Donnell is one of three winners of the 1996 HEROES Awards from the Sporting Goods Manufacturers Association. This honor is given each year to three individuals who make outstanding and unique humanitarian contributions to local sports programs throughout the United States.

In 1976, Elizabeth O'Donnell abandoned her lifelong dream of professional ice skating to find a more fulfilling challenge. It was at that time that Ms. O'Donnell left the Ice Capades to teach blind and handicapped people of all ages to ice skate. Motivated by her love of the sport and desire to share the freedom of movement, as well as the physical and psychological benefits which accompany skating, Ms. O'Donnell founded the Skating Association for the Blind and Handicapped [SABAH].

In her 20 years as coach, administrator, and president of SABAH, Ms. O'Donnell has taught more than 8,500 physically challenged people to leave behind their wheelchairs and crutches and learn to skate with specially designed walkers and harness systems. A number of Ms. O'Donnell's students have even learned to overcome their disabilities as a result of her coaching techniques.

Ms. O'Donnell's work might best be summarized in the words of Buffalo mayor, Anthony Massielo, the person who nominated her for the 1996 Sporting Goods Manufacturers Association HEROES Award: "For those people who might have known 'sports' as an abstract, Elizabeth has succeeded in translating the joy of achievement and accomplishment, which is so often overlooked in competitive sports, into a triumph of spirit."

Mr. President, I want to give my warmest congratulations to Ms. O'Donnell and to the people whose lives she helps make better. Her 1996 Sporting Goods Manufacturers Association HEROES Award is richly deserved.●

"REBUILDING EVERY BURNED BLACK CHURCH"

● Mr. BUMPERS. Mr. President, the February edition of Delta Airline's Sky magazine contained an article about one of this Nation's finest corporate citizens, the International Paper Co.

IP has donated lumber and building materials to the National Council of Churches in its efforts to rebuild black churches burned by arsonists in recent years. One such church torched in 1994 was Friendship Missionary Baptist in Proctor, Crittenden County, AR.

Last year International Paper stepped in to help this congregation. Today a new Friendship Missionary Baptist Church is under construction.

Mr. President, I want to commend this fine corporate citizen for the role it is playing to reverse the misery and hardship that has been caused by these church burnings.

I commend the article to my colleagues and ask that it be printed in the RECORD.

The article follows:

[From Sky, February 1997]

REBUILDING EVERY BURNED BLACK CHURCH

LED BY CEO JOHN T. DILLON, INTERNATIONAL PAPER HAS GONE INTO "THE BLESSING BUSINESS"

(By Timothy Harper)

On Thanksgiving Day 1994, an arsonist apparently torched the Friendship Missionary Baptist Church in Proctor, Arkansas. It was one of the first in a series of deliberately set fires that spread through predominantly black churches across the South. Many Americans, of every color, were appalled. Not just about race and religion, these were attacks on the ideals of equality and freedom in America. Our concept of what constitutes a civilized society was being violated.

In subsequent months, dozens more black churches were burned, and by the late spring and early summer of 1996, the incidents had become a compelling national story. The FBI began investigating. The National Council of Churches established the Burned Churches Fund. Churches, companies and individuals across the nation made contributions to help congregations rebuild.

Many of the burned churches' congregations were poor, however, and didn't know if they could rebuild, even with donations. Until June 27, 1996, that is. One that date, John T. Dillon, chairman and chief executive officer of International Paper, the world's largest wood products company, quietly told the National Council of Churches that his company would donate lumber and building materials from his company's broad range of construction products.

In his private letter to the Rev. Dr. Joan Brown Campbell, general secretary of the National Council of Churches, Dillon promised to provide as much as was needed to rebuild every church. He put no ceiling on the amount of material to be donated, or the cost. Dillon merely asked the Council, which is overseeing the reconstruction of the churches, to coordinate the effort to make sure that every church got what it needed to rebuild.

Purchase, New York-based International Paper, which had revenues in 1995 of nearly $20 billion and employs about 88,000 people around the world, provides the burned churches with lists of the company's wood and building materials, including beams, flooring, walls, sheeting, siding, shingles, doors and countertops. Churches, with the help of officials from the National Council of Churches, check off what they need and send the list back to International Paper. For churches that were burned to the ground, International Paper is providing up to 100 percent of the materials the company has to offer—and absorbing the costs.

Today, with a shipment of wood and materials from International Paper, a new Friendship Missionary Baptist Church is under construction near Proctor. "It's a wonderful thing," says Charles Eason, a deacon who is helping oversee the rebuilding. "We're just a small rural church, and this donation has made the difference for us. We don't know when we would have been able to rebuild without it."

In a memo to International employees explaining the donation, Dillon noted that many of the company's mills and local branches are is small towns across the South. "Beyond the instant tragedy associated with this wanton destruction, these events strike at the essence of what makes small-town communities so special," Dillon wrote. "For International Paper, small towns and small-town values have long been an important part of our history. The spirit of unity, dedication to purpose and pride in performing well that are so fundamental to these communities have also been indispensable to our company's success. This link, together with the premium we place on corporate citizenship, requires that International Paper respond in this time of need."

The Rev. Albert Pennybacker, who is overseeing the church reconstruction program for the National Council of Churches, says 124 churches were damaged by burnings. Some were rebuilt before the offer from International Paper, but he and International Paper officials estimate that "several dozen" churches ultimately will receive free wood and building materials.

"This is a really remarkable gesture by International Paper, a remarkable commitment," Pennybacker says. "We were overwhelmed by [their] generosity." Beyond making the wood and materials available, he says, International Paper has made an extraordinary, perhaps unprecedented, promise to make deliveries right to the churches.

That is no small or easily fulfilled promise. Since many of the burned churches are in isolated areas, down country lanes or out in the middle of farm fields, on land no one else wanted, those special deliveries are often far off the company's established delivery routes, taking drivers and trucks out of their usual rotations. Moreover, International Paper promised to make deliveries within a few days of receiving orders from the churches, thereby adding many thousands of dollars in staff time and rescheduling headaches to the total cost of the company's donation.

Pennybacker says the National Council of Churches originally guessed that the donated materials would be worth $1 million, but he now believes the cost to International Paper could be $2 million or more—at wholesale prices, not counting the considerable costs of delivery. That means an actual savings of several million dollars for churches that otherwise would have to go out and buy their materials at retail prices.

International Paper, meanwhile, does not seem to care what the contribution will end up costing. "This is an open-ended commitment and, frankly, we're not sure just how much it's going to cost," says Carl Gagliardi, the International Paper executive coordinating the program out of the company's Memphis, Tennessee, office. "This is one of the best things this company has ever done. It's been terrific for morale."

Indeed, when International Paper's rank-and-file employees received Dillon's note outlining the company's commitment to the burned churches, many of them clamored to be part of it. A few weeks later, Pennybacker got a call at his office at the National Council of Churches headquarters in New York. An International Paper representative wanted to come in and drop off some donations from employees. Pennybacker expected "a few thousand dollars, maybe." The executive showed up with a big box and dumped on Pennybacker's desk checks worth $37,787 from employees. He turned over another check for the same amount from International Paper, for a total donation of $75,574, and explained that Dillon had decreed that the company would match workers' individual donations dollar for dollar.

"During the past several weeks, I received several notes from employees who were eager to contribute to the fund and were eloquent in expressing their appreciation for the company's support for the rebuilding of the churches and communities that were victimized," Dillon said in a follow-up companywide note. "I am extremely proud, but unsurprised, by the compassion, community concern and civic responsibility represented by your contributions to the Burned Churches Fund. It is just another indication of why I feel so strongly about the men and women who make International Paper's team so extraordinary."

One aspect of this story is perhaps even more extraordinary: International Paper did not publicize its donation—no corporate news conference, no announcement, not even a press release. Dillon apparently did not want the donation to be seen as a bid for publicity.

The article you are reading would never have been written if the author had not happened to hear about the donation from a Presbyterian minister who has a friend working at the National Council of Churches. When Sky contacted International Paper headquarters, the publicity staff—professionals who are paid well to make sure Dillon and the company look good—agreed to provide copies of Dillon's notes to his company's work force but rebuffed a request to interview the CEO for this article as "not necessary."

Dozens of black congregations across the South, meanwhile, are eager to sing the praises of International Paper. "Oh, good!" Shirley Hines exclaimed when told that Sky was running a story about the International Paper donation. Hines, in charge of the rebuilding committee at Greater Mount Zion Tabernacle Church in Portsmouth, Virginia, says the congregation did not know if the church could be rebuilt after it burned in May 1995; the estimated cost of $340,000 was just too much.

International Paper's donation last autumn of wood, doors, wall paneling and other building supplies, however, took care of three-quarters of the cost of materials and let the congregation celebrate Christmas in its new, rededicated church. "International Paper told us to tell them what we needed. We faxed in a list, and in less than a week it was here. It was unbelievable," Hines says. "If not for International Paper, this church would have had to wait two or three years to reopen, if it ever did."

Hines recalled the dreary day when she, her pastor and several other church members waited in the rain for the first lumber delivery. When the big truck pulled up, she says, they laughed and shouted and cried and danced in the rain, snapping pictures of the forklift unloading the first pallets of wood that would become their new church.

"It made us realize that God is real," she says, "and He is still in the blessing business."•

CONGRESSIONAL RECORD STATEMENT HONORING 40TH ANNIVERSARY OF THE WARREN KIWANIS CLUB

• Mr. LEVIN. Mr. President, I rise today to salute the Kiwanis Club of Warren, MI, for its 40 years of service to the Warren community.

In 1957, a group of concerned businesspeople, professionals, and citizens formed the Kiwanis Club of Warren to help meet the needs in their community which were not being addressed by government or charities. Since its beginning, the Warren Kiwanis has provided numerous services to people in need, including persons with disabilities, senior citizens, and people requiring medical care. The Warren Kiwanis donated a bus to the Salvation Army, funded a fitness trail at a local park for disabled people, and have helped to pay for thousands of operations, utility bills, and ramps for people with disabilities.

The recent Presidents' Summit on Volunteerism drew the Nation's attention to the importance of giving back to our communities. The people of Warren, like those in so many communities throughout the country, are truly fortunate to dedicated Kiwanis Club members as their neighbors.

I hope my colleagues will join me in expressing congratulations and gratitude to the Kiwanis Club of Warren for their 40 years of good works.•

TRIBUTE TO MARGARET MACARTHUR

• Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Margaret MacArthur. Margaret has been selected to appear at the John F. Kennedy Center for Performing Arts on May 1, 1997. She will be appearing as the sole representative of Vermont in an annual celebration which will host artists from across the Nation.

Margaret represents the very best of Vermont. Her talent and hard work have been recognized time and time again. In 1985, she was selected by the New England Art Biennial as a New England living art treasure.

Margaret's repertoire consists almost exclusively of Vermont and other New England folk songs. She embodies the spirit of our Green Mountain State and has successfully shared its heritage, through music, with people throughout the country. Once again, I would like to extend my best wishes and congratulations to Margaret MacArthur.

Mr. President, I ask the following article from the Brattleboro Reformer be printed in the RECORD.

The article follows:

[From the Brattleboro Reformer, Dec. 6, 1996]

LOCAL FOLK ARTIST TO PERFORM AT KENNEDY CENTER

(By Jared Bazzy)

MARLBORO.—Folk singer Margaret MacArthur has been selected to appear at the John F. Kennedy Center for Performing Arts in Washington, D.C., this spring, as part of the Vermont State Day celebration.

U.S. Sen. James M. Jeffords, R–Vt., picked MacArthur to be the lone performer representing the Green Mountain State.

Jeffords, who chairs the Senate Subcommittee on Education, Arts, and Humanities, said Thursday, "Margaret represents what's best about Vermont's history and culture," adding, "This is a wonderful opportunity for visitors from across the nation to hear a true Vermont artist share our heritage."

MacArthur said she was invited a few weeks ago, just after she returned from performing at the Folk Song Society in Washington, D.C.

"But I've never sung at the Kennedy Center for gosh sakes. It's pretty exciting," she said in a telephone interview from her home in Marlboro.

The Kennedy Center annually celebrates all 50 states with a performance by a local artist from each one. MacArthur will perform May 1, 1997.

Accompanying herself at different times on guitar, dulcimer and harp-zither, MacArthur's repertoire consists almost exclusively of Vermont and New England folk songs. She was raised in the Ozarks of Missouri and moved to Vermont in 1948. She spends winters in Arizona. Therefore, she also sings many songs from Missouri, nearby Kentucky and Arizona.

She said that she will certainly take along her harp-zither, which was given to her by the family of Rawsonville farmer Merle Landsman after it was found in his barn.

She said she will perform songs from a collection of 7,000 Vermont songs compiled by Helen Hartness Flanders. Flanders was the wife of the late Sen. Ralph Flanders, and MacArthur enjoys the connection between their lives in Washington D.C. and her performance at the Kennedy Center.

"This will give me a good opportunity to honor her and her collection," she said.

The New England Art Biennial, panel from the University of Massachusetts, Amherst, chose MacArthur in 1985 as a "New England living art treasure." Her recording career spans to the early 1960s, when she recorded "Folksongs of Vermont" on Folkways records. She has since recorded eight more albums, including several with members of her family, who also live in Marlboro.

Recent local performance ventures included the Brattleboro Museum and Art Center, as part of a series on farming in Vermont.

She is currently completing her 10th recording, which is being produced at Sound Design in Brattleboro and is entitled "Them Stars."

MacArthur believes it was her work as artist-in-residence in schools throughout the state that brought her to Jeffords' attention. As a visiting artist, she had children set local folk tales to music which culminated two years ago with the production of "Vermont Heritage Songs."•

CHILDREN'S HEALTH CARE INSURANCE PROVIDES SECURITY [CHIPS] ACT

• Mr. ROBB. Mr. President, I'm pleased to be an original cosponsor of the Children's Health Insurance Provides Security [CHIPS] Act because I support expanding access to health care for children who lack coverage today, and because I believe this bill is both flexible and targeted to children in families least likely to have employer-based coverage and least able to purchase health insurance on their own.

It is my hope that States will find the enhanced Federal Medicaid match included in this bill to be a valuable tool to assist many vulnerable families, particularly families moving from welfare to work. Far too many welfare recipients will, at least initially, move from dependency into hourly jobs with little pay and few, if any, benefits. Children should not lose their health care because their parents work.•

HONORING THE CENTRAL/DELPHI FIRST TEAM

• Mr. LEVIN. Mr. President, I rise today to recognize the achievements of a remarkable group from my home State of Michigan. A team of students from Pontiac Central High School and engineers from Delphi Interior and Lighting Systems won two national awards at the prestigious FIRST [For Inspiration and Recognition of Science and Technology] competition held April 10–12 in Orlando, FL.

The Central/Delphi team received the tournament trophy as a finalist in the robotics competition, and the team also won the competition's highest honor, the Chairman's Award, given to the most comprehensive school-corporate partnership program among the 155 competitors. As Chairman's Award winners, the team will be honored by President Clinton at a Rose Garden reception.

The Central/Delphi FIRST team helps to open young minds to science, mathematics, and technology. Pontiac Central students also have an opportunity to work at Delphi during the summer, which helps them continue learning outside of school and gain valuable on-the-job training. The innovative CADET program, an extension of Central/Delphi FIRST, uses unique activities to promote the fun of math, science and technology to students at seven elementary and junior high schools. As the presenter of the Chairman's Award said, "The judges believe that this team has turned many children on to science and math. Through their strong partnership, FIRST became the avenue for an entire school of talented students to reach personal success."

The success of the Central/Delphi team and the FIRST program in general is a powerful example of what educators and corporations can do to improve opportunities for our young men and women. I commend Delphi Interior and Lighting for their commitment to education. I am proud of the talented students who achieved so much at this prestigious competition. I hope my colleagues will join me in congratulating the young men and women of Pontiac Central High School and the employees of Delphi Interior and Lighting for their achievements at the sixth annual FIRST competition.•

CHEMICAL WEAPONS CONVENTION

• Mr. KYL. Mr. President, everyone agrees that ridding the world of chemical weapons is a noble and worthy goal to pursue. These are weapons that no nation should have in its stockpile—and that includes the United States. By law, the U.S. stockpile will be destroyed whether or not the Chemical Weapons Convention [CWC] is ever ratified by the Senate. Opponents of the Convention support that action.

Notwithstanding agreement on the goals of the CWC, we do not believe that this treaty can ever achieve the goals. It will not accomplish its objective of being global, verifiable, and effective ban on these weapons. Moreover, because of deficiencies in the treaty—which, by its terms, adopting parties must ratify wholesale without amendment—we believe the United States is better off without the CWC than with it. As a result, we could not support ratification absent certain certifications by the President prior to deposit of our instrument of ratification.

Faced with the fact that the treaty is largely unverifiable, some ratification supporters argue that no treaty is 100 percent verifiable, and that, while not perfect, the CWC is better than nothing, especially since chemical weapons are so morally objectionable. Proponents further assert that the CWC is needed because it establishes an international norm that stigmatizes these weapons; that the CWC will bring us some intelligence we do not now have regarding the possession and manufacture of these weapons; and that it will provide trade benefits to U.S. chemical companies. Finally, they argue that we need to be a party to the treaty to protect our interests as details of implementation are worked out by the various parties.

For the sake of argument, even assuming that these relatively modest benefits claimed for the treaty would in fact materialize, we believe these claimed benefits do not outweigh the costs.

Opponents are convinced that the costs of ratifying the CWC outweigh the advanced benefits in several important respects, including the following: First, it would create a United Nations-style bureaucracy, 25 percent of the cost of which must be paid for by U.S. taxpayers. Second, it would put American businesses under a financially burdensome, security-compromising, and quite possibly unconstitutional inspection regime. Third, it would exacerbate the chemical threat we face by undermining existing multilateral trade restrictions, sanctions, and embargoes the United States has placed on rogue countries like Iran and Cuba. Fourth, it would require information sharing that signatory nations, if so inclined, could use to advance their chemical weapons programs. Fifth, the convention would give the Nation with the largest CW stockpile—Russia—an excuse to abrogate the Bilateral Destruction Agreement [BDA] it entered into with the United States to destroy chemical weapons. And this is not hypothetical speculation—there are growing indications Russia does not intend to comply with the BDA, which is much more restrictive than the CWC. Sixth, the prospect of ratification would create—there are already signs that it is creating—a false sense of security that encourages the United States to let its guard down on defending against the use of chemical weapons against American troops. Seventh, it degrades the value of treaties and moral statements because all nations understand it is unenforceable.

The CWC represents hope over reality. It makes people feel good to say they have done something about a class of weapons we all abhor. But signing this piece of paper is not going to solve the problem—and that's the problem. Hard problems can't be wished away with naive hopes and tough talk in the form of yet another international agreement, no matter how many other nations have signed on.

If the United States is to make a unique moral statement as proponents urge, we shouldn't be stampeded into ratifying this treaty "because other nations have." The United States passed on joining the League of Nations even though, as with the CWC, it had promoted the League in the beginning and many other nations had decided to join it. Too often the international community has pronounced itself greatly pleased at solving the latest crisis with yet another treaty like the Kellogg-Briand Pact of 1928 which outlawed war as an instrument of national policy. And too often, as here, disappointment has followed because of the disconnect between the good intentions and the hard reality. To the argument that we will look bad because it was our idea in the first place, opponents say that real respect is rooted in responsible, honest positions; and that U.S. leadership in taking a different approach will be rewarded in the long term.

It is not possible to ban the manufacture and possession of chemical weapons, and we should not delude ourselves into thinking it is possible. What we

can do is back up our demand that no one use chemical weapons, with international cooperation based on the will to punish violators so severely that use is deterred. That too is not easy; but, as the use of nuclear weapons has been deterred, so too can the use of chemical weapons be deterred if we have the will.

THE CWC IS NOT GLOBAL

The original goal of the CWC was that it would ban the manufacture and use of chemical weapons by all the nations of the world. Unfortunately, the countries with chemical weapons that we are most concerned about—Iraq, Libya, Syria, and North Korea—have not yet signed the CWC, let alone ratified it. Pakistan, Iran, and Russia also have chemical weapons programs; while they have signed the agreement, they may not ratify. So, the nations that pose the most serious threat may never fall under the CWC's strictures.

Nor is the CWC global in terms of the chemical substances it covers. While it prohibits the possession of many dangerous chemicals, two that it does not prohibit were employed with deadly effect in World War I: phosgene and hydrogen cyanide. But they are too widely used for commercial purposes to be banned, which speaks volumes about this treaty's impracticality.

Nor does the CWC control as many dangerous chemicals as does an export control regime currently employed by 29 industrialized countries. The Australia Group regime already controls trade in 54 chemicals that could be used to develop chemical weapons. Of the 54 chemicals subject to the Group's export controls, 20 are not covered by the CWC. That list of 20 includes potassium fluoride, hydrogen fluoride, potassium cyanide, and sodium cyanide, all used in making chemical weapons.

Finally, there are news reports that Russia has produced a new class of binary nerve agents many times more lethal than any other known chemical agents. These agents are reportedly made from chemicals used for industrial and agricultural purposes and are not covered by the CWC. In February 1997, the Washington Times disclosed that under this program, "the Russians could already produce pilot plant quantities of 55 to 110 tons annually of two new nerve agents—A-232 and A-234. These agents can also reportedly be made from different chemical formulations allowing the agents to be produced in different types of facilities, depending on the raw material and equipment available. For example, one version of an agent can be produced using a common industrial solvent—acetonitrile—and an organic phosphate compound that can be disguised as a pesticide precursor. In another version, soldiers need only add alcohol to a premixed solution to form the final CW agent.

THE CWC IS NOT VERIFIABLE

The second original goal of the convention was that it was to be verifiable. CWC negotiators in Geneva were told by then-Vice President George Bush on April 18, 1984:

> For a chemical weapons ban to work, each party must have confidence that the other parties are abiding by it. . . . No sensible government enters into those international contracts known as treaties unless it can ascertain—or verify—that it is getting what it contracted for.

As it turns out, however, the treaty fails to achieve this primary objective as well. A recently declassified portion of an August 1993 National Intelligence Estimate reads:

> The capability of the intelligence community to monitor compliance with the Chemical Weapons Convention is severely limited and likely to remain so for the rest of the decade. The key provision of the monitoring regime—challenge inspections at undeclared sites—can be thwarted by a nation determined to preserve a small, secret program using the delays and managed access rules allowed by the Convention.

Former Director of the CIA, James Woolsey, said in testimony 2 years ago before the Senate Foreign Relations Committee that:

> The chemical weapons problem is so difficult from an intelligence perspective, that I cannot state that we have high confidence in our ability to detect noncompliance, especially on a small scale.

The problem, of course, is that manufacture of the ingredients used in chemical weapons is so common, so universal, and so easy that the obstacles to verification are enormous. Processes involved in the production of pesticides, for example, are strikingly similar to the processes used to develop weapons like mustard gas. According to a January 1992 report by a team of analysts led by Kathleen Bailey of the Lawrence Livermore National Laboratory.

> Countries which have organophosphorus pesticide plants could convert or divert production toward weapons material without major effort. . . . Competent chemical engineers with diversified experience could design equipment capable of meeting minimum operating objectives. . . . Only a few thousand dollars would be needed for piping and seals, several hundred thousand dollars [would be needed] for specialized equipment.

Not only that, but different processes can be used to produce the same agent. Nations wishing to conceal the development of chemical agents can employ multiple processes. Therefore, unearthing a covert program under the CWC's provisions will be nearly impossible. It just doesn't take much money, much time, much space, or much security to produce chemical weapons.

That adequate verification is illusory under this treaty is now widely acknowledged by technical experts and the U.S. intelligence community alike. Even supporters of the treaty—like former ACDA Director Ken Adelman—confirm that it is not verifiable. In his editorial endorsing the treaty, Mr. Adelman conceded this point up front stating, "Granted, the treaty is virtually unverifiable. And, granted, it doesn't seem right for the Senate to ratify an unverifiable treaty."

We also have the experience of the U.N. team charged with inspecting Saddam Hussein's military establishment as proof of the difficulties of detection when a country is determined to develop these weapons. Even with the most intrusive searches—which hundreds of inspectors have conducted over five years in Iraq—evidence of weapons development has only belatedly been uncovered. It is likely that Iraq will continue to have a CW program and that the U.N. inspectors will continue to miss much of it even with intrusive inspection. The CWC's inspection regime pales in comparison to the regime in Iraq, and the treaty's verification provisions will not enable us to catch cheaters.

Terrorist groups present a special problem because they can buy chemicals locally and manufacture weapons in very small spaces. In 1995, the Aum Shinrikyo cult in Japan produced sarin gas from components bought in Japan, and assembled this noxious agent in a room 8 by 12 feet in size, using legitimately produced chemicals.

In addition to the problems just outlined—of dealing with closed societies like Iraq, of sorting out the military from the commercial manufacture of chemicals, and of detecting CW activities that might take place in the smallest of nooks and crannies—concealment is also facilitated by the treaty itself because it allows ample time for inspected parties to hide what they are doing. Judge William Webster, former Director of the FBI and of the CIA, testified before the Senate Foreign Relations Committee that a facility producing chemical warfare agents could be cleaned up—without any trace of chemicals—in under nine hours. Judge Webster said:

> Because of the equipment needed to produce chemical warfare agents can also be used to produce legitimate industrial chemicals, any pharmaceutical or pesticide plant can be converted to produce these agents. A nation with even a modest chemical industry could use its facilities for part time production of chemical warfare agents. Libyan Leader Quadaffi, in a speech delivered in October, claimed that the facility at Rabta is intended to produce pharmaceutical, not chemical warfare agents. He proposed opening the complex for international inspection. But within fewer than 24 hours, some say 8½ hours, it would be relatively easy for the Libyans to make the site appear to be a pharmaceutical facility. All traces of chemical weapons production could be removed in that amount of time.

Therefore, the treaty fails to satisfy its two principal premises: it is neither global nor verifiable. Proponents concede this point to one degree or another, but argue that, on balance, it is still better than nothing. Opponents

believe, to the contrary, that the treaty would actually create more problems than it solves.

WHAT HARM IN APPROVING THE CWC?

Proponents say the deficiencies in the treaty are outweighed by the moral statement it makes in establishing an international norm against the possession of chemical weapons; by the trade benefits it will bring to U.S. chemical companies; and by marginal gains in intelligence if we become a party to the treaty.

MORAL STATEMENT

By definition, to have the influence and weight of a moral statement, an action must be genuine. A treaty that cannot prevent those who sign on to it from cheating, and that, even if cheating were discovered, would not apply meaningful punishment to the violator—such a treaty is essentially hollow. History shows that hollow declarations are worse than none at all. A commitment honored more in the breach than the observance is not a moral statement; it fools no one and it deters no one.

Proponents of ratification argue that at least this treaty would be a tool in the hands of diplomats who would attempt to dissuade cash-strapped countries from selling chemicals to rogue nations to advance their CW programs. But, countries can easily ignore the treaty and export even the more dangerous chemicals because it is so difficult to verify compliance, and because there is no real enforcement mechanism. The CWC will be adhered to by nations that have no intention of doing what it prohibits —with or without the treaty—and will be ignored by those who choose to ignore it—whether or not they are parties. There simply is no effective enforcement—no ability to catch cheaters and no punishment, in any event.

Under Article XII of the CWC, parties caught violating treaty provisions are simply threatened with a restriction or suspension of convention privileges. Those privileges are simply the right to participate in the treaty. At worst, a report will be sent to the U.N. General Assembly and the U.N. Security Council. With no predetermined sanctions in place to deter potential violators, the CWC is doomed to ineffectiveness.

Finally, there already is an international norm against chemical weapons that is both global and verifiable. The 1925 Geneva Protocol outlaws the use—not the mere possession—of chemical weapons. In World War II, the Protocol was enforced by the allied leaders' threat to respond in kind to any chemical attack. But after Iraq used chemical weapons against its Kurdish population and Iranian soldiers in the late 1980's, diplomats met to address this heinous war crime. These diplomats, faced with incontrovertible evidence of an Iraqi abrogation of the Geneva Protocol, were not able to agree on sanctioning Iraq and we could not even agree to list that country by name in a statement condemning the attack. If the world community could not muster the will to punish an obvious violation like that, how are the CWC participants going to summon the will to sanction a mere possessor or manufacturer of these weapons on evidence that may be much less conclusive than the proof of use by Iraq?

Indeed, as in Hans Christian Andersen's fairy tale, the real moral statement may be in exposing the naked truth about this ineffectual document. It could be that, despite all the fine words about the treaty—or the emperor's fine clothes—there is actually nothing here.

Given the United States' preeminent position as the sole remaining superpower after the end of the cold war, we should make a moral statement. We do it by destroying our own stocks—which we are doing; by admitting that the CWC is so flawed that it is not effective in its current form; by working to develop an effective enforcement regime for the Geneva Protocol; and by pushing forward with our bilateral CW destruction efforts with Russia and, perhaps, other nations.

There are many multilateral treaties on the books—such as the Law of the Sea Treaty, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child—that make high moral statements which few pay attention to because the United States has not ratified them. There are currently 48 treaties pending before the Senate. Because of the United States' preeminent position, our unilateral actions often speak louder than anything else. To return to the point I made at the outset: we already have a policy in place. Through Public Law 99-145, the United States is committed to destroying the bulk of its chemical weapons by the year 2004. Through our actions we demonstrate U.S. leadership in ridding the world of chemical weapons.

It matters how we make a moral statement. Papering over a problem with a treaty is not an effective moral statement. If everyone knows going into it that the CWC, despite its moral pretensions, is unverifiable and ineffective, this merely engenders cynicism about international treaties. The outrage that the use of these weapons stirs in us is undermined when we enter a treaty with a nod and a wink.

PUBLIC HARM

The argument that the treaty may not be perfect but at least it does not do any harm is not only an exceedingly weak justification for the treaty, but an inaccurate one. There are significant public and private costs were we to participate in the CWC.

First, it creates a new U.N.-type bureaucracy, a new international organization called the Organization for the Prohibition of Chemical Weapons [OPCW], located in The Hague. The OPCW will oversee implementation of the treaty. Based on studies by the Congressional Office of Technology Assessment [OTA] and the General Accounting Office, total direct costs of the treaty to the U.S. taxpayer could reach $200 million annually. That includes the U.S. obligation to cover one-fourth of the operating budget of the OPCW. This year, the administration is requesting a total of nearly $130 million, of which $52 million is destined for the OPCW in The Hague.

Moreover, Russia has said it will not ratify the CWC unless it is given a significant amount of Western aid to pay for the destruction of its chemical weapons. The figure often mentioned in this context is $3.3 billion. But when Russia realizes the magnitude of the undertaking, this may prove to be a drastic underestimation. After all, destruction of the United States chemical stockpile, which is smaller than that of Russia, will cost us at least $11 billion.

HARM TO PRIVATE INDUSTRY

Ratifying the treaty would harm U.S. industry in basically three ways: First, it imposes a costly new regulatory burden on American industry. Second, it is the first arms-control treaty in history that subjects private companies to inspections by agents of foreign governments, which could well portend a loss of trade secrets. Third, for the first time ever, U.S. citizens will be subject to a treaty that involves the reach of international authorities, raising significant constitutional issues. Unlike any treaty we have ever ratified, the CWC requires prosecution of individual American citizens for treaty violations. Its inspection regime poses a potential threat to the constitutional rights of U.S. citizens.

REGULATORY BURDEN

Every U.S. company that produces, processes, or consumes a scheduled chemical will be subject to new regulatory requirements, including a declaration burden. ACDA estimates that 3,000 to 8,000 companies will be affected, although the OTA estimated in 1992 that 10,000 companies would come under the CWC's strictures.

The treaty entails routine inspections of specified chemical producers. ACDA acknowledges that many industries outside the chemical industry will be required to fill out forms and open their books to international inspectors, including:

Sherwin-Williams Co., Safeway Stores, Inc., Quaker Oats Co., Kraft Foods Ingredients, Maxwell House Coffee Co., Conoco, Inc., Gillette Co., Strohs Brewery, ADM Corn Processing Division, Colgate-Palmolive Co., Xerox

Corp., Castrol, Inc., General Motors Corp., Goodyear Tire & Rubber Co., Simpson Timber Co., Lockheed-Martin Corp., Kaiser Aluminum, and Browning Seed, Inc.

For some companies, especially small- and medium-sized establishments, the production data reporting requirements in the CWC are budget busters. Depending on the types and numbers of controlled chemicals made or used by the company, these records can run $50,000 to $150,000 per year to maintain and report.

The administration provided me with a list of 81 companies in Arizona that could be affected by the treaty because they utilize industrial chemicals limited by it. I contacted 25 of those companies to find out if it knew about the CWC and its ramifications for them. Many company officials were not aware of the treaty, or were aware of it only vaguely. Several reported back with calculations of what compliance would cost them. One Phoenix company estimates an annual cost of $70,000 a year to complete the treaty's reporting requirements. Officials at the company also told me that tracking the production and use of industrial chemicals back to 1946, as the treaty also requires, "would be impossible because such historical data no longer exists." According to a Tucson construction company, the costs don't end there. As its officials wrote to me: "In order to state without reservations that we do or do not have in our possession any of the chemicals or their constituents, we would have to either hire a consultant versed in chemistry or put a chemist on our staff for the assurance and determination of our strict adherence."

Under the treaty, thousands of U.S. companies will be subject to routine inspections. When inspectors show up at its doorstep, one company said, "we would be greatly concerned that such a visit might compromise confidential business information."

POTENTIAL LOSS OF PROPRIETARY INFORMATION

The greatest potential for loss of trade secrets is with the challenge inspections that the treaty allows. These challenges could occur at literally any building on U.S. territory—even a company that does not have a CWC reporting requirement. Sophisticated equipment, such as mass spectrometers, will be used by the international inspectors. They can glean proprietary information, such as the process used to make a biotechnology product. Also, clandestine sampling and data collection by inspectors would be hard to detect and stop.

In 1992, the OTA identified examples of proprietary information that could be compromised:

The formula of a new drug or specialty chemical;

A synthetic route that requires the fewest steps or the cheapest raw materials;

The form, source, composition, and purity of raw materials and solvents;

Subtle changes in pressure or temperature at key steps in the process;

Expansion and marketing plans;

Raw materials and suppliers;

Manufacturing costs;

Prices and sales figures;

Names of technical personnel working on a particular subject; and

Customer lists.

Also according to OTA, the means by which sensitive business information could be acquired by foreign inspectors include the following:

Manifests and container labels that disclose the nature/purity of the feedstock and the identity of the supplier.

Instrument panels that reveal precise temperature and pressure settings for a production process.

Chemical analysis of residues taken from a valve or seal on the production line.

Visual inspection of piping configurations and instrumentation diagrams that could allow an inspector to deduce flow and process parameters.

Audits of plant records.

Clearly, while it is difficult to assess the potential dollar losses that may be associated with the compromise of proprietary business data, information gleaned from inspections and data declarations literally could be worth millions of dollars to foreign competitors, and U.S. companies have little recourse against frivolous inspections.

Proponents of the treaty note that the Chemical Manufacturers Association (CMA) supports the agreement despite its inspection regime. Opponents note that the CMA represents about 190 of the 3,000 to 8,000 companies likely to be affected by the treaty. Other trade associations representing a larger number of firms, like the Aerospace Industries Association of America [AIA], whose firms collectively are the second largest U.S. exporter of goods and services, the U.S. Business Information Committee, and the Small Business Survival Committee oppose the CWC.

LEGAL ISSUES

The Senate Judiciary Committee hearing held on September 10, 1996, confirmed that there are serious legal difficulties associated with the CWC. The international inspections it requires may result in violations of the constitutional rights of the officers of U.S. firms, specifically their rights under the fifth amendment to the U.S. Constitution. Also, attempts to fix these legal shortcomings by changing the implementing legislation confront the problem of striking a balance between respect for the constitutional rights of American citizens, on the one hand, and the need for international inspectors to be as intrusive as possible, on the other hand. The administration believes the treaty strikes the right balance. I believe the treaty institutionalizes the worst of both worlds: an unverifiable treaty that, nevertheless, also infringes on U.S. citizens' constitutional rights. We get a company in Phoenix spending a lot of money opening up its premises and disclosing corporate information, in exchange for which we have no assurance at all that we can deter someone preparing noxious chemical agents halfway around the world.

As Judge Robert Bork said in a recent letter to Senator HATCH that international inspectors collecting data and analyzing samples "may constitute an illegal seizure" under the takings clause of the fifth amendment. The U.S. Government owes a citizen just compensation, under this amendment, for an illegal seizure of intellectual property.

Participating in the CWC could result in hundreds of millions of dollars lost to companies from industrial espionage undertaken during or as a result of the international inspection of their facilities. The OTA pointed out in a 1993 report that the chemical industry "is one of the top five industries targeted by foreign companies and governments and that the problem of industrial espionage is growing." The OTA explained just how much is at stake for any given company: "Development and testing of a new pesticide," according to the OTA, "takes an average of 10 years and $25 million. Innovation in the pharmaceutical industry is even costlier." A new drug, estimates the OTA, requires an average of 12 years of research and an after-tax investment of roughly $194 million—estimated in 1990 dollars." And please keep in mind these figures do not include the lost revenues due to lost sales.

Incidents of industrial espionage are not uncommon. The OTA study on the CWC also discussed the results of a survey of U.S. companies in which 8 of 11 firms responding reported attempts to misappropriate proprietary business information. The 8 affected companies reported a total of 21 incidents, 6 of which cost the companies $86.25 million.

The CWC does not have a procedure for victimized companies to recover damages, or to punish any foreign inspectors who participated in the theft of proprietary information. In fact, the treaty explicitly prohibits a victimized company from taking legal action against the new international inspection organization. That leaves the U.S. Government to provide indemnity.

A CWC proponent, Professor Barry Kellman of DePaul University, wrote in 1993 that "loss or disclosure of confidential information of the Technical Secretariat—the agency created by the treaty—may have constitutional implications because trade secret owners are entitled to compensation" when there are leaks of proprietary information as a result of government action. So, even treaty proponents say "just compensation" for takings under the U.S. Constitution may well come into play. We

have not adequately considered what kind of a compensation commitment we are making through this treaty, and what kind of an obligation we are letting U.S. taxpayers in for if we ratify it.

An Impossible Balance: Proponents acknowledge there may be legal problems with the treaty; however, the U.S. Senate cannot tinker with the treaty language. Article XXII says that "the Articles of this Convention shall not be subject to reservations." Still, proponents claim that the legal problems can be fixed by carefully crafting the implementing legislation. Fixing the treaty in this way seems doubtful at best—at least if the intention is to leave the treaty as anything more than a fragile shell that will fall apart on the first occasion that someone objects to an inspection on U.S. soil. The administration has now agreed to require criminal warrants and a determination of probable cause for every nonvoluntary challenge inspection and to seek administrative search warrants for nonvoluntary routine inspections. How does this square with our international obligation to allow inspections to proceed? Constitutional fixes to the implementing legislation will not be compatible with the CWC's dependence on an intrusive inspection regime. This incompatibility means that we will have entered into a promise we know, under our Constitution, we will not be able to keep.

Rest assured that we will probably be copied—and by nations that may have something to hide. If the United States argues that it can provide constitutional protections with implementing legislation, countries like Iran, China, or Russia, or any other participating nation will be able to point to what we've done and similarly modify their interpretation of the CWC to suit their own objectives.

Nations of laws like the United States will both comply with the CWC and protect constitutional rights, while violators will use constitutional rights to get away with storing or building chemical weapons. A global ban on possessing chemical weapons that respects constitutional rights, therefore, can be violated at will. And, an airtight ban on possessing chemical weapons—if one were possible—cannot protect constitutional rights. Pointing this out is not trying to have it both ways; rather, it is acknowledging the futility of pursuing this kind of solution.

INTELLIGENCE GAINS FROM THE CWC ARE ILLUSORY

Terrorism

A major advantage of this treaty, according to proponents, is that it will provide U.S. intelligence agencies with information they can use to protect American citizens. One of the more extravagant claims of CWC proponents in the administration, in fact, is that participating in the CWC will help us fight terrorism. During his State of the Union Address in February, President Clinton said the CWC would "help us fight terrorism."

His implication departs from the otherwise relatively objective and limited claims made for the treaty. It is unsubstantiated by any analysis or evidence. A declassified section of a Defense Intelligence Agency document of February 1996 states: "Irrespective of whether the CWC enters into force, terrorists will likely look upon CW as a means to gain greater publicity and instill widespread fear. The March 1995 Tokyo subway attack by Aum Shinrikyo would not have been prevented by the CWC."

A CIA report of May 1996, a portion of which has been declassified, makes the same point: "In the case of Aum Shinrikyo, the CWC would not have hindered the cult from procuring the needed chemical compounds used in its production of sarin. Further, the Aum would have escaped the CWC requirement for an end-use certification because it purchased the chemicals within Japan." The CWC does not help deny terrorists easy access to nerve gas and other chemical weapons, among other reasons, because terrorists can simply obtain their chemicals in their own country for ostensibly legitimate purposes—they do not have to import them.

Intelligence regarding nations' CW programs

Nor will participating in what the columnist George Will called "the Chemical Weapons Convention's impressively baroque, but otherwise unimpressive, scheme of inspection and enforcement" add much to our knowledge of other countries' CW programs. Former Deputy CIA Director Richard Kerr said it is true that we will know a lot more about some countries, but only those "that are least likely to develop and use these weapons." We will have gone to a lot of trouble and expense, in other words, to learn that Belgium is not violating the treaty. The costs are simply not worth the benefits we gain.

Our real intelligence payoff, as a general matter, is in intrusive U.S. intelligence collection and sophisticated U.S. analysis, not in a group of international inspectors making spot inspections—looking for the proverbial needle in a haystack—and giving plenty of advance notice to anyone actually suspected of violating this treaty. In fact, the international inspectors themselves, according to former Deputy CIA Director Kerr, will have to rely on U.S. intelligence to be able to do their jobs. This compromises our own sensitive information and our own methods of collecting that information.

Intelligence is difficult to gather in a closed society, and the case of United Nations scrutiny of Iraq, which actually used chemical weapons to kill thousands of Kurdish noncombatants in 1988, teaches a sobering lesson. The team of U.N. inspectors concentrating full-time on Iraq—which would not, of course, be the case with the OPCW inspectors who will have worldwide responsibilities—has uncovered some new developments in Saddam Hussein's chemical weapons program, but even their most thorough and sustained inspections have not found everything. Inspections under the CWC, under far less intensive circumstances, will not hamper a regime determined to have these frightful weapons.

Proponents say over and over again that we are better off inside the treaty than outside, because of the store of data we will get out of the reporting regime and the inspection process. But where will this information come from? Being inside the treaty offers little insight into the actions of potential violators because: First, rogue states outside of the treaty will not be inspected by the OPCW; second, the treaty annex states that the OPCW cannot release to any nation information deemed to be confidential; third, while some OPCW inspectors will no doubt be Americans, the treaty annex on confidentiality states that inspectors are required to sign individual secrecy agreements with the OPCW, therefore they can't give American intelligence agencies any proscribed information. If we play by the rules, just where is this intelligence data going to come from?

Finally, history shows that states are not very likely to call attention to treaty violations that intelligence-gatherers learn about because the diplomatic considerations frequently supersede treaty enforcement. Recall, for example, the phased-array radar station at Krasnoyarsk, in the then-Soviet Union, which violated the Anti-Ballistic Missile Treaty. Our intelligence reports were effectively ignored so as not to force the United States to take action against the Soviet Union for violating the treaty. We thought the higher priority was to maintain good relations with the Soviet Union, which would have become strained if we used our intelligence to expose that nation's violations. Russian violations of the Biological Weapons Convention, moreover, are noted each year in ACDA's Pell report on arms-control compliance, yet nothing is ever done to make Russia comply. Intelligence can be helpful until it reveals treaty violations, then it becomes submerged and subordinated to diplomatic considerations.

CHEMICAL INDUSTRY NOT HARMED BY REJECTING CWC

The third claim made by CWC proponents—based largely on the recommendations of the Chemical Manufacturers Association—is that there is financial harm in not ratifying this

agreement. But the CMA's argument that we have to get on board this train or we will miss out, is just not true.

The initial estimate from CMA claims that if the Senate fails to consent to ratification of the CWC, U.S. chemical companies will be subject to trade restrictions, which will place $600 million of annual chemical trade at risk. On the surface, CMA appears to have maintained a consistent estimate of the CWC's impact on U.S. chemical trade since the Senate first considered the treaty last September. Close examination of the facts, however, reveals that CMA's estimate has shrunk considerably over time and appears to overstate any potential negative impact of nonratification.

CMA's initial estimate stated that $600 million of annual U.S. chemical exports would be placed at risk.

When the President of the association met with me in February, he explained that CMA had refined its initial estimate and now believed $600 million in two-way trade would be affected, with only $281 million in annual exports of Schedule 2 chemicals placed at risk.

In a letter to me on March 10, CMA revised its figures yet again, stating that the upper-bound estimate now indicated $227 million in annual U.S. Schedule 2 chemical exports would be jeopardized by nonratification.

The $227 million represents about 0.38 percent of total U.S. chemical exports, indicating that if we accept CMA's figures at face value, over 99.6 percent of U.S. chemical exports will be unaffected by failure to ratify the CWC. Even CMA's revised estimate appears to greatly overstate the impact of nonratification.

More than half of CMA's export estimate is based on exports of one chemical—amiton. Amiton is a pesticide ingredient that is banned in the United States, Europe, Japan, and Canada—America's principal chemical export markets—but is widely exported to African states, a large number of which are not CWC signatories. While we may not be able to ascertain the exact percentage of U.S. amiton trade to non-CWC signatories, such trade likely constitutes the bulk of the overall amiton market and would be unaffected by CWC sanctions.

CMA's upper-bound estimate that $426 million in U.S. chemical imports will be affected is also suspect. Over 50 percent of the import estimate is based on trade in one group of chemicals which CMA admits "may reflect broader chemical families," implying the estimate may include trade in related chemicals not restricted by the CWC. In addition, the U.S. has the most advanced chemical industry in the world. Although short term disruptions might occur if United States firms were unable to import certain chemicals, American industry would almost certainly be capable of producing the same chemicals currently purchased from abroad.

In preparing its estimate, CMA used U.S. Government data on chemical trade and a complex methodology which includes estimates of growth in U.S. trade and worldwide GNP, as well as other factors. CMA did not ask its own member companies—which collectively produce about 90 percent of all chemicals manufactured in the United States—to provide figures on chemical imports and exports. This would have given us a simple, reliable estimate of the actual impact of CWC nonratification. CMA claims its members consider this data to be confidential and would not provide it, although far more detailed accounting will be required under the CWC.

Although CMA has publicly discussed possible business losses from nonratification, none of its member companies have informed their stockholders of any potential adverse impact.

Since the administration pulled the treaty from Senate consideration in September 1996 none of the CMA's 193 members have filed an 8-K form with the Securities and Exchange Commission [SEC], notifying their stockholders of this potential adverse impact and none have discussed it in their annual 10-K filings.

An 8-K filing is required to "* * * report the occurrence of any material events or corporate changes which are of importance to investors or security holders and previously have not been reported by the registrant."

Form 10-K is the annual report most companies file with the SEC and provides a comprehensive overview of the firm's business.

CMA claims none of its companies are legally required to file such forms due to uncertainty over whether the CWC will be ratified and since none of the firms will have more than 10 percent of its sales affected by nonratification. The SEC defines material changes as those that affect at least 10 percent of a company's sales. This admission further undermines their position that nonratification will be extremely detrimental to U.S. chemical companies.

Finally, CMA has not determined the costs to its members for CWC implementation. The increased costs of complying with the treaty's reporting requirements and preparing for inspections are substantial. As I mentioned earlier, one Phoenix company estimates it will cost $70,000 per year to comply with the treaty's reporting requirements. In addition, companies will incur substantial costs to host inspections. The Department of Defense has estimated that the cost of hosting inspections of facilities engaged in highly proprietary activities like the production of advanced composite materials "could be as high as $200,000 to $500,000."

When we add up the costs of complying with the CWC's regulatory burden, the costs of hosting inspections, the costs from the potential loss of confidential business information, and the loss of constitutional protections, its clear that the costs far outweigh the benefits of this treaty.

FOREIGN AND DEFENSE POLICIES HARMED BY THE CWC

To review, then, all three advantages claimed for this treaty—stigmatizing chemical weapons all across the globe, increased intelligence, maintaining our competitive advantage in the chemical trade—are either nonexistent or so slight they hardly matter considering the serious negative consequences of ratifying this treaty. I would now like to briefly address the harm to our foreign and defense postures were we to accept this agreement in its current form.

THE CWC CREATES A FALSE SENSE OF SECURITY

I believe that we run the risk of reducing the priority of U.S. chemical defense programs if we sign on to a weighty moral statement and a complicated—but ineffective—effort to outlaw these objectionable weapons. The Department of Defense allocates less than 1 percent of its budget to chemical and biological weapons defense activities, and yet annual funding for this area has decreased in real terms by over 22 percent since the Persian Gulf conflict, from $792 million in fiscal year 1992 to $619 million requested for fiscal year 1998. With chemical weapons defense programs already underfunded, the Chairman of the Joint Chiefs of Staff, General Shalikashvili, recommended in February 1996 that chemical and biological defense programs be slashed by over $1.5 billion through 2003. This recommendation was made only weeks before General Shalikashvili testified before the Senate Foreign Relations Committee that the Department of Defense [DOD] was committed to a robust chemical defense program. This is the kind of false sense of security induced by signing treaties such as the CWC.

It should seem obvious that ratifying this treaty does not mean we will not face a chemical threat. Because of the proliferation of covert chemical capabilities, U.S. combat operations may expose military forces to lethal chemicals in the future. Any deficiencies in U.S. chemical protective, reconnaissance, and decontamination capabilities will exacerbate the likely casualties.

This is not a theoretical problem. A 1996 GAO study found that deficiencies in U.S. chemical and biological defense training and equipment identified during Operation Desert Storm still remain.

In testimony before the House Committee on National Security Committee, the GAO stated, "The primary cause for deficiencies in chemical and

biological weapons preparedness is a lack of emphasis up and down the line of command in DOD." The situation results from the "generally lower priority DOD—especially the Joint Chiefs of Staff and the war-fighting Commanders-in-Chief—assigns chemical and biological defense as evidenced by limited funding, staffing, and mission priority chemical and biological defense activities receive."

If history is any guide, we may well see those vulnerabilities increase. After the Biological Weapons Convention came into force in 1972, the U.S. biological defense program withered, with funding cut by 50 percent—not because defenses were outlawed by that treaty, but because of constant criticism by arms-control advocates who saw them as contrary to the spirit, although not the letter, of the Biological Weapons Convention.

Given the administration's demonstrated lack of emphasis to chemical defenses, we can expect that when financial cuts are required to meet declining budgets, funds for hedging against violations of an allegedly comprehensive treaty will make an attractive target.

TREATY UNDERMINES EXISTING INTERNATIONAL INSTRUMENTS

Saddam Hussein used chemical weapons not only in 1988 against the Kurds, but earlier in the decade against the Iranian population in the Iran-Iraq war. It was in the wake of confirmation of Iraq's use of chemical agents in 1984 that the Australia Group was formed, to try to stop the military use of these substances. The Australia Group regime will be undercut by the more lenient CWC, as I have already indicated. And that is not the only international instrument that will be undercut by this treaty.

U.S.-RUSSIAN BILATERAL DESTRUCTION AGREEMENT

The U.S. approach to the problem posed by Russia—which does not belong to the Australia Group—has been to hammer out a bilateral agreement with that nation. The Bilateral Destruction Agreement of 1990 requires both the United States and Russia to stop producing chemical weapons and to reduce their active stockpiles to no more than 5,000 metric tonnes. The United States has begun to destroy its chemical weapons. Political turmoil in Russia has made ensuring Russian compliance difficult at best. Moscow has not even begun to reduce its stockpile, which is the largest in the world.

Russia has signed the CWC but not yet ratified. Russian officials can now dangle before United States officials the possibility that the Duma will ratify the CWC some day, and in this way justify Moscow's current inaction. Indeed, there are indications that our push to ratify the CWC has moved the Russians toward outright renunciation of the BDA.

Compliance with the BDA begins, of course, with truthful and complete declarations of chemical weapons data. ACDA's 1995 Pell report noted that Russia has refused to accept the BDA's key provisions and has "taken a minimalist approach to declaration requirements and verification costs of CW production facilities that is inconsistent with the CWC." To comply with the 1989 memorandum of understanding with us which led up to the BDA, Russia declared 40,000 metric tonnes of agent. This declaration has prompted challenges of the veracity of Russian reporting.

CIA Director James Woolsey said in June 23, 1994 testimony before the Foreign Relations Committee that the United States had "serious concerns over apparent incompleteness, inconsistency and contradictory aspects of the data" submitted by Russia under the memorandum of understanding. On August 27, 1993, Adm. William Studeman, acting CIA Director, wrote to Senator GLENN that "We cannot confirm that the Russian declaration of 40,000 mt is accurate. In addition, we cannot confirm that the total stockpile is stored only at the seven sites declared by the Soviets."

Reports in the Washington Times (11-8-89) and Washington Post (11-9-89) cite Defense Intelligence Agency estimates that the Soviet/Russian stockpile could be as large as 75,000 tons.

Even more troubling are public reports in the Washington Times and Wall Street Journal that Russia has developed highly lethal binary chemical weapons. Dr. Vil Mirzayanov, former chief of counterintelligence at Russia's State Union Scientific Research Institute for Organic Chemistry and Technology, also published his observations in the October 1995 Stimson Center Report No. 17. Dr. Mirzayanov reported that Russia has produced a new class of binary nerve agents many times more lethal than any other known chemical agents: the so-called novichok agents made from chemicals not covered by the CWC which are used for industrial or agricultural purposes. He further reported that Russia continued development of these highly lethal binary weapons despite signing the BDA in 1990.

Dr. Mirzayanov states:

> First, I witnessed the duplicity of Soviet officials during the CWC negotiations. Although the United States stopped producing and testing chemical weapons and signed an agreement with the Soviet Union to that effect in June 1990, the USSR did not stop work.

In a recent letter to me, Dr. Mirzayanov indicated that, to the best of his knowledge, as many as six novichok CW agents may have been developed. Dr. Mirzayanov feels so strongly about the threat from these new agents that he supports the CWC under the mistaken impression that the treaty will eliminate these weapons. Unfortunately, the chemicals used to make novichok agents are not controlled by the CWC, Russia has not ratified the treaty, and it's unlikely we would be able to detect illicit production of the component chemicals of these agents. Our intelligence community described this problem in a May 1995 national intelligence estimate which concluded that the production of new binary agents like the novichok chemicals, "would be difficult to detect and confirm as a CWC-prohibited activity."

Clinton administration claims that the chemicals used to produce the novichok agents will simply be added to the CWC's list of controlled substances understate the danger and difficulty of this proposition.

Should the United States learn the composition of such agents, it is unlikely we would seek to add these chemicals to the CWC annex since adding the compounds means making public the chemical structure of the agent, thereby undermining efforts to limit the spread of CW expertise and knowledge to rogue states.

In addition, adding a chemical to the CWC annex is a long, convoluted process which could take up to 2 years and require the concurrence of two-thirds of CWC states parties.

Finally, the component chemicals of the novichok agents may be so widely used for commercial purposes—like phosgene, which was used as a CW agent in World War I—that it may not be practical to add them to the lists of controlled chemicals.

The actions of key Russian personnel highlight Russia's lack of commitment to the CWC itself. Lt. Gen. Anatoly Kuntsevich, former chairman of the Russian President's Committee on Conventional Problems of Chemical and Biological Weapons, was arrested on charges of selling military chemicals to Middle East terrorists. Col. Gen. S.V. Petrov openly alluded to the desirability of maintaining a chemical weapons capability in a Russian military journal entitled "Military Thought." Both individuals are high-ranking military signatories to the "U.S.-Russian Work Plan for the Destruction of Russia's Chemical Weapons."

With that as our background, we should be very cautious about expecting Russia, even if its legislature should ratify the CWC, to take a new multilateral commitment on chemical weapons seriously.

PROLIFERATION AMONG PARTICIPANTS IN THE CWC

The CWC's potential to facilitate proliferation is not limited to its pernicious effects on Australia Group controls. It may also undermine existing unilateral United States sanctions against Iran and Cuba. Chemical exports to Iran were embargoed by the

Reagan administration on March 30, 1984. That embargo is still in force, as is the embargo against Fidel Castro declared in 1962. The United States imposed secondary sanctions last year on foreign companies that aid the oil industries of Iran or Libya.

These kinds of embargoes and sanctions are prohibited among the family of nations that decide to join this convention. Article XI of the treaty provides that state parties shall:

Not maintain among themselves any restrictions, including those in any international agreements, incompatible with the obligations undertaken under this Convention, which would restrict or impede trade and the development and promotion of scientific and technological knowledge in the field of chemistry for industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes.

In other words, if the United States and Iran were to ratify the convention—as Cuba has already done—Teheran would have a powerful claim to override American-led restrictions in the chemical field.

Article XI further specifies that states parties shall:

Undertake to facilitate, and have the right to participate in, the fullest possible exchange of chemicals, equipment and scientific and technical information relating to the development and application of chemistry for purposes not prohibited under this Convention.

This provision repeats the mistake made in the Nuclear Nonproliferation Treaty—the so-called Atoms for Peace initiative—under which ostensibly peaceful technology has been provided to nations who then diverted it to proscribed military purposes. Neither a United States trade embargo, nor legislation like the Helms-Burton bill, nor the Australia Group export control regime, nor any other arrangement can interfere with Teheran's or Havana's right to demand access to state-of-the-art chemical manufacturing capabilities.

To those who ask, what's the harm of approving this treaty? I think it is now clear that the answer is, plenty. It does not erect a barrier against CW proliferation; in fact, as just noted, it increases the likelihood of proliferation. In this and all of the other ways I have described, the convention would be very detrimental to the interests of United States and its citizens—especially when compared to the anemic benefits of ratification.

IF NOT THE CWC, THEN WHAT?

Opponents of the CWC are committed to meaningful efforts to prevent the use of chemical weapons. We should start with first principles.

ENFORCING THE 1925 GENEVA PROTOCOL

An effective treaty should be global and verifiable. The 1925 Geneva Protocol is both: it covers all nations of concern to the United States and, because it outlaws the lethal use of chemical weapons, it is inherently verifiable. Victims of use have every reason to expose treaty violations, as the Iranians and the Kurds did. By definition, outlawing use is a more realistic goal than the CWC's goal of outlawing possession of these common substances. What is necessary—for both treaties—is effective enforcement. In World War II, the enforcement of the Geneva Protocol was the allied leaders' threat to retaliate in kind to any chemical attack. The Geneva Protocol was effective during that conflict. But it has not been well enforced outside of the context of a threat of retaliation in kind. Such threats fade in effectiveness as civilized nations grow more and more reluctant to contemplate ever using these abhorrent weapons.

To make the Protocol more than a "no first use" agreement—in other words, to free it of its dependence on a credible threat of retaliation in kind—would require states that are party to it impose strong sanction to any and all violations. This did not happen when Iraq used chemical weapons in the mid-1980's and later in the decade. Diplomats met in 1989 to address the gassing of the Kurds and, faced with incontrovertible proof of an abrogation of the Geneva Protocol, did not sanction Iraq. Many experts believe that the most productive measure to counteract chemical weapons is to develop meaningful international sanctions that could be added to the Geneva Protocol to give it teeth. Had a Geneva Protocol enforcement mechanism been in place and acted upon when Iraq first used its CW arsenal, Iraq's further refinement of a chemical war-fighting capability may have been slowed or even halted before Saddam threatened U.S. soldiers with these same weapons during the gulf war.

This approach offers a significant advantage: it would resolve the verification issue. It is relatively easy to detect use as opposed to possession. It is likely that a nation on the receiving end of a chemical attack would welcome international inspectors to confirm that a violation has occurred and to garner worldwide condemnation of the perpetrator. The second advantage is that, as I earlier indicated, several of the nations we are most worried about—that have not ratified the CWC—have already ratified the Geneva Protocol. I am speaking of Cuba, Iraq, North Korea, and the former Soviet Union.

PRESSING RUSSIA TO UPHOLD ITS EXISTING COMMITMENTS

In addition, the United States must make a high priority holding Russia to its commitments under the 1989 memorandum of understanding and the 1990 bilateral agreement to destroy chemical weapons. The current administration has not been forceful in making clear we expect compliance. Progress made between the two countries on this issue need not be wasted, if we really mean to do something about chemical warfare.

IMPLEMENTING THE CHEMICAL AND BIOLOGICAL WEAPONS THREAT REDUCTION ACT (S.495)

Finally, there are additional steps we can, and should, take. The Senate passed on March 20 the Chemical and Biological Weapons Threat Reduction Act (S. 495). This legislation provides a comprehensive package of domestic and international measures aimed at reducing chemical, as well as biological, weapons threats to the United States, its citizens, its armed forces and those of our allies. It sets forth practical and realistic steps to achieve this objective.

The act fills important gaps in U.S. law by outlawing the entire range of chemical and biological weapons activities. Quite remarkably, the possession of chemical weapons is not today a criminal offense. S. 495 corrects that untenable situation, and sets out still criminal, civil, and other penalties the spectrum of chemical and biological weapons related activities.

The act will also strengthen and reinforce deterrence against the use of chemical and biological weapons. Strong controls on trade in these weapons, as called for in the legislation, will make it more difficult and raise the costs for rogue nations to acquire offensive chemical and biological weapons capabilities. Improvements in U.S. and allied chemical and biological defenses, also mandated by the act, will serve to devalue the potential political and military utility of these weapons by would-be opponents. And the requirement that tough sanctions be imposed against any nation that uses poison gas should reduce the chance that such weapons would be used in the first place.

S. 495 recognizes that we can't go it alone when it comes to dealing with chemical and biological weapons threats. True, some things we can and should do on a unilateral basis. But sensible international action, focused on concrete and achievable measures, must likewise be an essential component of our strategy. The legislation encourages our allies and potential coalition partners to match our efforts and improve their military capabilities against chemical and biological weapons. The legislation also seeks multilateral agreement on enforcement mechanisms for the 1925 Geneva Protocol.

The Chemical and Biological Weapons Threat Reduction Act thus provides a sensible and effective plan that CWC critics and proponents alike should support. By enacting and implementing the act, the United States will lead by example, and will underscore its commitment to bringing together like-minded friends and allies to make unthinkable the resort to chemical or biological weapons.

CONCLUSION

Arms-control treaties, at the end of the day, are not a substitute for defense preparedness. A treaty as flawed as the Chemical Weapons Convention is worth less to our country than the unilateral actions the United States can and must take to ensure the protection and the survival of its citizens. The entry into force of the CWC—with or without American participation—will not bring us a world in which these terrible weapons are no longer manufactured or stockpiled. Nor can we say they will never be used. When words, diplomacy, and international documents signed with the best of intentions fail to protect populations from the threat of attack with these inhuman weapons, every nation falls back upon its ability to preempt or repel such an attack. It would be irresponsible to let down our guard in this respect, for history has shown us that treaties—even well-crafted ones—cannot replace the political and military will that are necessary to oppose acts of aggression.•

IN MEMORY OF OWEN WILLIAMS

• Mr. COVERDELL. Mr. President, too often, it seems good deeds and public service go unrecognized while it is precisely the proprietors of these acts who hold our communities together. I would like to take a moment to recognize one of these proprietors who I call unsung heroes. On Saturday, March 1 of this year, a dear friend and colleague of mine, Owen Williams, and his son, Alfredo, were tragically killed by a drunk driver in my home State of Georgia.

Owen was a true hero in my eyes—bright, devout, and committed to his wife Carolyn and eight children. A former Vietnam combat veteran, Owen was dedicated to his community, his country, and his God.

When I issued a call to action for Georgians to help reduce the rising tide of teen drug use, Owen was one of the first to answer. He served in a volunteer capacity as chairman of the Bibb County Operation Drug Free Georgia Committee and was making great strides in his community with the program.

This Saturday, at our second annual statewide drug summit, which is dedicated to the memory of Owen and Alfredo, I will present the First American Hero Award to Owen's family for the great contributions he made to those around him. It has been said that the mark of a great man is that his deeds touch the lives of others even after he is gone. I know this will be true of Owen. This is a tragic loss, particularly for me, but the work that Owen has done will continue to serve as an inspiration to us all.•

CHILDREN'S HEALTH INSURANCE PROVIDES SECURITY (CHIPS) ACT

• Mr. CHAFEE. Mr. President, yesterday I introduced S. 674 along with Senator ROCKEFELLER and others. I ask that the text of bill S. 674 be printed in the RECORD.

The text of the bill follows:

S. 674

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 "Children's Health Insurance Provides Security (CHIPS) Act of 1997".

SEC. 2. ENCOURAGING STATES THROUGH INCREASED FEDERAL MEDICAL ASSISTANCE PERCENTAGE (FMAP) TO EXPAND MEDICAID COVERAGE OF CHILDREN AND PREGNANT WOMEN.

(a) INCREASED FMAP FOR MEDICAL ASSISTANCE FOR CERTAIN INDIVIDUALS.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (b), by adding at the end the following new sentence: "Notwithstanding the first sentence of this subsection, in the case of a State plan that meets the conditions described in subsection (t)(1), with respect to expenditures for medical assistance for individuals within an optional coverage group (as defined in subsection (t)(2)) the Federal medical assistance percentage is equal to the enhanced medical assistance percentage described in subsection (t)(3).."; and

(2) by adding at the end the following new subsection:

"(t)(1) The conditions described in this paragraph for a State plan are as follows:

"(A) The plan provides (either through exercise of the option under section 1902(l)(1)(D) or authority under section 1902(r)(2)) for coverage under section 1902(l)(1)(D) of individuals under 19 years of age, regardless of date of birth.

"(B) The plan provides under section 1902(e)(12) for continuous eligibility for a period of 12 months (under subparagraph (A) of such section) of all individuals under 19 years of age who are determined to be eligible for benefits under a State plan approved under this title under section 1902(a)(10)(A).

"(2) For purposes of subsection (b), the term 'optional coverage group' means individuals described in each of the following subparagraphs:

"(A) PREGNANT WOMEN WITH FAMILY INCOME BETWEEN 133 PERCENT AND 150 PERCENT OF POVERTY LINE.—Women described in subparagraph (A) of section 1902(l)(1) whose family income exceeds 133 percent, but does not exceed 150 percent, of the poverty line for a family of the size involved.

"(B) INFANTS WITH FAMILY INCOME BETWEEN 133 PERCENT AND 150 PERCENT OF POVERTY LINE.—Infants described in subparagraph (B) of section 1902(l)(1) whose family income exceeds 133 percent, but does not exceed 150 percent, of the poverty line for a family of the size involved.

"(C) CHILDREN UNDER 6 YEARS OF AGE WITH FAMILY INCOME BETWEEN 133 PERCENT AND 150 PERCENT OF POVERTY LINE.—Children described in subparagraph (C) of section 1902(l)(1) whose family income exceeds 133 percent, but does not exceed 150 percent, of the poverty line for a family of the size involved.

"(D) OLDER CHILDREN WITH FAMILY INCOME BETWEEN 100 PERCENT AND 150 PERCENT OF POVERTY LINE.—Children described in subparagraph (D) of section 1902(l)(1), who are not described in any of subclauses (I) through (III) of section 1902(a)(10)(A)(i), and whose family income exceeds 100 percent, but does not exceed 150 percent, of the poverty line for a family of the size involved.

"(3) The enhanced medical assistance percentage described in this paragraph for a State is equal to the Federal medical assistance percentage (as defined in the first sentence of subsection (b)) for the State increased (but not above 90 percent) by the number of percentage points equal to 30 percent of the number of percentage points by which (A) such Federal medical assistance percentage for the State, is less than (B) 100 percent.".

(b) STATE OPTION TO EXPAND ELIGIBILITY TO 150 PERCENT OF POVERTY LINE FOR CHILDREN OVER 1 YEAR OF AGE.—Section 1902(l)(2) of such Act (42 U.S.C. 1396a(l)(2)) is amended—

(1) in subparagraph (B), by striking "equal to 133 percent" and inserting "a percentage (specified by the State and not less than 133 percent and not more than 150 percent)", and

(2) in subparagraph (C), by striking "equal to 100 percent" and inserting "a percentage (specified by the State and not less than 100 percent and not more than 150 percent)".

(c) CLARIFICATION OF STATE OPTION TO COVER ALL CHILDREN UNDER 19 YEARS OF AGE.—Section 1902(l)(1)(D) of such Act (42 U.S.C. 1396a(l)(1)(D)) is amended by inserting "(or, at the option of a State, after any earlier date)" after "children born after September 30, 1983".

(d) STATE OPTION OF CONTINUOUS ELIGIBILITY FOR 12 MONTHS.—Section 1902(e) of such Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

"(12) At the option of the State, the plan may provide that an individual who is under an age specified by the State (not to exceed 19 years of age) and who is determined to be eligible for benefits under a State plan approved under this title under subsection (a)(10)(A) shall remain eligible for those benefits until the earlier of—

"(A) the end of a period (not to exceed 12 months) following the determination; or

"(B) the time that the individual exceeds that age.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance for items and services furnished on or after January 1, 1998.

SEC. 3. EMPLOYER CONTRIBUTIONS TO PREMIUMS.

(a) GENERAL RULE.—Any employer which elects to make employer contributions on behalf of an individual who is an employee of such employer, or who is a dependent of such employee, for health insurance coverage shall not condition, or vary, such contributions with respect to any such individual by reason of such individual's status as an individual eligible for medical assistance under a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(b) ELIMINATION OF CONTRIBUTIONS.—An employer shall not be treated as failing to meet the requirements of subsection (a) if the employer ceases to make employer contributions for health insurance coverage for all its employees.

(c) ENFORCEMENT.—The enforcement provisions applicable to group health insurance coverage under the amendments made by section 101(e)(2) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 1952) shall apply with respect to an employer that violates the provisions of this section in the

same manner as such provisions apply to employers under such amendments.

SEC. 4. GRANT PROGRAM TO PROMOTE OUTREACH EFFORTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each fiscal year beginning with fiscal year 1998 to the Secretary of Health and Human Services, $25,000,000 for grants to States, localities, and nonprofit entities to promote outreach efforts to enroll eligible children under the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and related programs.

(b) USE OF FUNDS.—Funds under this section may be used to reimburse States, localities, and nonprofit entities for additional training and administrative costs associated with outreach activities. Such activities include the following:

(1) USE OF A COMMON APPLICATION FORM FOR FEDERAL CHILD ASSISTANCE PROGRAMS.—Implementing use of a single application form (established by the Secretary and based on the model application forms developed under subsections (a) and (b) of section 6506 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 701 note; 1396a note)) to determine the eligibility of a child or the child's family (as applicable) for assistance or benefits under the medicaid program and under other Federal child assistance programs (such as the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), the food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)), and the State program for foster care maintenance payments and adoption assistance payments under part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.)).

(2) EXPANDING OUTSTATIONING OF ELIGIBILITY PERSONNEL.—Providing for the stationing of eligibility workers at sites, such as hospitals and health clinics, at which children receive health care or related services.

(c) APPLICATION, ETC.—Funding shall be made available under this section only upon the approval of an application by a State, locality, or nonprofit entity for such funding and only upon such terms and conditions as the Secretary specifies.

(d) ADMINISTRATION.—The Secretary may administer the grant program under this section through the identifiable administrative unit designated under section 509(a) of the Social Security Act (42 U.S.C. 709(a)) to promote coordination of medicaid and maternal and child health activities and other child health related activities.●

FRANKLIN DELANO ROOSEVELT MEMORIAL DEDICATION

● Mr. LEVIN. Mr. President, tomorrow, May 2, we will dedicate a memorial on the Tidal Basin in West Potomac Park to one of America's greatest Presidents, a towering figure in the history of the 20th century, Franklin Delano Roosevelt.

A memorial to FDR was first proposed in the Congress as early as 1946. The FDR Memorial Commission was finally established, by law, in 1955. It has taken 42 years to complete this effort. I am proud to have served on the Memorial Commission. Tomorrow, will be a great day for Americans, a day to look back and remember FDR, his enormous contribution to all of our lives and the contribution of the generation of Americans who struggled through the depression and valiantly defeated fascism; a day to admire the beauty and to be inspired by the art of this great new addition to our capital city's memorials; and a day to contemplate America's future and the contribution that this memorial will make to the understanding that future generations will have of one of the most critical eras of our history.

This memorial is a expression of what America is all about. It is what America can do to overcome challenges of depression and war. Roosevelt imbued hope and he instilled optimism in a people who were down and out in a depression and then attacked when we were down, by Japan at Pearl Harbor.

Franklin Roosevelt was an inspirational leader because of his optimism in the face of the long odds our Nation faced. He was our voice. He reflected our hopes. He continues to inspire us today because he showed what we can do when we pull together as a people. And, this new memorial will help to keep FDR's legacy inspiring Americans for the centuries ahead.

Roosevelt saw the positive role of Government in the economy, pulling us out of the depression and in times of a world war, when we had to pull together. But he was also willing to experiment. He was not somebody who would hang onto a program if it wasn't working. He believed that Government programs could make a positive difference. And they did for millions. But he also believed that if Government programs were not working that we should either make them work or drop them. This is a model we would do well to keep in mind in the weeks, and the years ahead as Congress grapples with the difficult problems of balancing the needs of people, and the role of Government in addressing those needs with the demands of fiscal responsibility.

The memorial will also honor the memory and contributions of the First Lady who as the eyes and ears of the President traveled hundreds of thousands of miles visiting Americans in every walk of life.

Mr. President, I want to mention a few of my own memories of F.D.R. During the Roosevelt years, I was a young boy, but I can clearly remember the strength of his voice in those fireside chats. And I remember the conversation around the family's dinner table about what a great leader he was.

I remember scouting the streets for discarded empty cigarette packs. This was something kids did. We stripped off the tin foil linings and brought them to school where they were rolled together to create large balls of the metal, which could be recycled for the war effort. This gave us an enormous sense of being a part of the effort and of responding to Roosevelt's call for participation.

And, I remember his dog, Fala. Especially for a young boy Fala was a big part of the Roosevelt persona. That's why, when I noted the fact that his dog, which meant so much to him and to the Nation, which was such a symbol of his warmth and humanity, was left out of the monument, I suggested Fala be represented in the memorial and the commission agreed. So, tomorrow as the statues of Franklin and of Eleanor are unveiled, a little statue of Fala, recognizing his historic role, will also be there as well, helping to connect FDR to future generations of visitors, especially our kids and grandkids.

Mr. President, now I would like to honor the memory of this great American President by reading some of the anecdotes and sentiments of people from Michigan, where he is well remembered by seniors and veterans, and even by many who know him only from film and audio tape, but remembered with reverence and often with at least one tear in the eye.

I have asked my constituents in Michigan to send to me some of their remembrances of FDR. I have received many moving and inspiring stories. I want to share some of those with my colleagues in the Senate today.

MICHIGAN REMEMBERS F.D.R.

Back in the 1920's, my father Alfred Angeli and a number of his friends came over to this country to escape the Fascism and Communism in Italy. They found a new life here in America and they adored Franklin Delano Roosevelt. They had great respect for him for the job he did in creating jobs and putting everybody back to work.

My father and about eight of his friends were very serious in their respect for FDR, and honored him by naming their hunting camp 'Campobello'. It was a very sad day when the great man died. * * * My parents, who are now gone, would be very proud to know they are taking part in this tribute to Mr. Roosevelt.—Mike Angeli, Marquette, Michigan.

About ten years ago, I appeared before the county board to obtain approval for a grant to fund a senior citizens feeding program. The chairman of the board got very upset calling me something like "a big spending-liberal-government interferer * * * (like FDR)". I told him I'm not old enough to have served with President Roosevelt, but that he is an idol of mine and that I was extremely honored to have been put in the same category.—Ron Calery, Chippewa-Mackinac-Luce Community, Action Agency Director, Sault Ste. Marie, Michigan.

When FDR ran, the stock market had crashed and times were tough. There were no jobs and no money. Hoover ran on a platform of "a chicken in every pot", but people wanted a job. Roosevelt won in a landslide, after he said he would put people back to work. He did just that.

Everyone had bills, and few people had the money to pay them. So a situation was created where people could work off their bills. If you had to go to the hospital while on welfare, you worked the bill off with the city by sweeping streets or picking up trash or cleaning the parks. Each time you worked, you would reduce your bill. Though there were years we didn't have two nickels to rub

together, we survived.—Arthur Carron, Bark River, Michigan.

FDR literally transformed the country from a feeling of overwhelming despair to hope and confidence. When Roosevelt was elected I was approaching my 16th birthday. On the west side of Detroit in a neighborhood of autoworkers practically everyone was jobless. The giant Ford Rouge plant was working at 25 percent of capacity. Other auto companies and all of the auto supplier companies were in a similar situation. My father and the fathers of all my boyhood friends were unemployed. Men who were really willing and anxious to work. There was a feeling of desperation and hopelessness. Most important of all they lost their sense of dignity when they could not provide for their families. Roosevelt, through the various governmental programs, gave these men hope and a sense of well being they had not experienced for some time.—Doug Fraser, Professor of Labor Studies, Wayne State U., Former President of U.A.W., Northville, Michigan.

Oliver Wendell Holmes once said, "A man's mind stretched by a new idea, will never return to its former dimension." I was one of those fortunate unemployed young men who joined with over three million other destitute kids and signed up with the Civilian Conservation Corps.

It seems that FDR scratched out his C.C.C. idea on a restaurant napkin. This vision was an unprecedented gamble in bringing a bankrupt nation back on its feet. I was one of those three million who was lifted from the depths of despair, each given a chance to earn self-respect, dignity and self-esteem. How does a nation measure a dimension such as that? Just consider the families that these men represented, grateful for the monthly $25.00 and the succor it supplied.

I can testify to that. Sixty-four years ago when men's spirits were tested by want and deprivation, it seems like only yesterday that I walked into that welfare office. I was not afraid of the hunger, but the indignity it caused. I felt not a pain in my stomach, but an ache in my heart. . .I was sworn into the C.C.C. Now, I was accepted, now I could say, "Hello to tomorrow". I became a member of an idea whose time had come. Roosevelt's tree army.—Rev. Bill Fraser, First V.P. National Assoc. of C.C.C. Alumni, Grayling, Michigan.

My mother named me Franklin Delano Garrison in his honor. From the time I was a small child I took a great pride in being named for someone who was a hero to everyone I knew, even though at first I wasn't really sure why. Then I came to understand that my family was eating only because the New Deal was providing some food assistance, and my father was working only because the Works Progress Administration was providing jobs. I came to see for myself the hardships that the Depression had brought to the old, the hungry and the deserted—and to realize that one man had led the nation in providing not only sustenance but also hope where both had been lost.—Franklin Delano Garrison, President, Michigan State AFL-CIO, Lansing, Michigan.

I am very happy that President Roosevelt is finally having a memorial dedicated in his honor. I am 83 years old and lived through the Depression, and know how bad times were. Before the election of President Roosevelt, I worked on welfare for $2.00 a day for an eight hour shift.

With President Roosevelt's election times got better. With the New Deal of the WPA, I got $22.00 a week for a four day six hour shift. I will always be grateful to President Roosevelt for social security, unemployment benefits and being able to unionize for better wages and benefits and to protect jobs. President Roosevelt will always be my idol.—Rudy Gregorich, Painesdale, Michigan.

We members of the Eighth Armored Division had been on the march, without a break, around the clock, for days—sometimes unopposed, in other places, held up by the familiar and bitter last-ditch Nazi resistance.

At last, late one morning, a halt was signaled. We dropped—dirty, hungry, and almost unconscious—and slept, some in the ditches along the road, others stretched out on the rear decks of their tanks, others where they sat in tank turrets, in half tracks, or on truck seats.

Then a startling message started down the line from the lead vehicle, which had a shortwave radio. Men, as they heard it, shook the next man awake and passed it on: President Roosevelt was dead.

In a sense, President Roosevelt was a soldier in that fight—just like us. And like us, this good man was exhausted. He was a casualty of the war. But he had the satisfaction of knowing that he left the field with the battle well in hand.—Jack R. Hendrickson, Ph.D., Birmingham, Michigan.

The year may have been 1932, or 1934, and my mother a widow of some 60 years had been left well-provided for by my father at his death in 1931. But the Great Depression struck the USA and its economy was stagnant, mired down, seemingly unable to extricate itself from the doldrums it found itself caught in . . .

It was a time of calamity, of no one knowing quite what to do. Mother had never experienced this type of emergency in her long life. There was little or no relief in sight. Radio broadcasts were discouraging and gave no hint of the end of the Depression in sight. My sister, married with three little ones, recalls walking three or more miles to obtain government free food and carrying it home, walking as she had come.

The one light on the horizon in the midst of this gloom was the radio program when President Delano Roosevelt, elected a few months previously, would address the people in his famous fireside chats. His voice soothing, deep-textured, commanding confidence as he spoke words of optimism were most welcome by the bewildered public. "We have nothing to fear, except fear itself," he said on one momentous occasion. How the people clung to his words bearing hope that this President of the United States instilled over the air. As someone noted sixty years later, FDR could not raise himself from a chair, but by moral strength was able to lift a great nation out of the Depression in the Thirties! All America hung onto his words, hung on to the confidence he instilled, in their government, in their country, awaiting with patience for the clouds of Depression to lift!—Dr. Marie Heyda, O.P., Grand Rapids Dominicans, Grand Rapids, Michigan.

My younger sister was in the wars and had the honor of meeting President Roosevelt at his summer home.

I feel that FDR was one of the greatest presidents that ever lived. Even though he was so educated, he still was for the average person. He did so much for the people while in office.—Kathryn V. Holden, Saginaw, Michigan.

* * * 1940. I was pregnant * * * and Newman, my husband, was working for Labor's Nonpartisan League in the office of the Philadelphia Joint Board, Amalgamated Clothing Workers of America, 2000 South Street.

Since I was not working and had no child care needs, I was a volunteer in the office, handing out literature at rallies and some house to house visiting in North Philly, in the Kensington area and a bit in South Philly.

Our work culminated in a huge rally for the President in the stadium, shortly before the election. It was raining and my husband and friends did not think I should go. But I did, and it was the most impressive, exciting and largest rally I ever participated in.

My labor came early, and daughter Sharon was born at St. Luke's Hospital November 3, the election was the next day * * * Since I had made no plans for an absentee ballot and there was no way I could get one of those days, I missed my opportunity to vote for the third term of FDR. The only time in my life I have failed to vote in an election either primary or general.—Mildred Jeffrey, Detroit, Michigan.

When the 73rd Congress opened * * * FDR bombarded Congress with bills to stimulate the economy. During his first month in office, he used his authority * * * to establish the Public Works Administration which helped my father while laid off from the railroad for about a year.—Leonard Klemm, Saginaw, Michigan.

President Roosevelt really left a great impact upon our country. He came into office at the time of the Great Depression and did much to relieve the suffering of the people and to restore confidence in our banking system and the Government in general. He won great respect through his fireside chats, radio connection and as the first President to address the nation on national television.—B.L. Little, Saginaw, Michigan.

I had only one personal encounter with President Roosevelt, but it is one I can recall quite vividly even today. * * * FDR had been campaigning for reelection that day in New England, but the end of the day had brought him to New York. By chance we saw his motorcade, which couldn't have been more than two or three cars.

He rode in an open car, and I can still see him waving his hat and smiling as he passed by. He was an inspiration to me then and he continues to inspire me today.—William G. Milliken, Former Michigan Governor, Traverse City, Michigan.

I became aware that President Roosevelt was planning to recruit thousands of youths between ages 18 and 25 to serve in forestry camps throughout the nation to perform tasks, such as planting trees, building roads, erosion control, fighting forest fires, miles of fire trails and telephone lines strung, and other conservation related work.

I had just turned 18 when I heard about the program, and at the time was a barber's apprentice in Cascade, Michigan * * * The Civilian Conservation Corps sounded like the answer to my situation, and I immediately made myself available. * * *

After leaving the C.C.C. camps, I enlisted in the U.S. Navy * * * While assigned to the Sick Officer's Ward, I was attendant to then Secretary of the Navy, Claude Swanson. During that time President Roosevelt visited Swanson twice * * * This was a great honor for me to have the opportunity to stand close to the President of the United States.

* * * Following a military career, I became involved in organizing a civilian conservation corps alumni group here in Grand Rapids, Michigan. * * * with the support of the C.C.C. Alumni veterans, was able to convince Governor Blanchard, and the state legislature, to establish a Michigan Civilian Conservation Corps patterned after Roosevelt's depression era C.C.C. program.—Frank Munger, Grand Rapids, Michigan.

My uncle, Billy Rogers, living in Chicago, was one of the many. No job, no money and dependent on the small income of his mother gave him little hope for the future. Thank God for the C.C.C.! They took him in—fed and clothed him, taught him the value of manual labor and gave him a sense of pride. Friendships made in camp endured for many years.

Diligent work and a cheerful attitude earned him the most coveted job in camp: truck driver! After completing his enrollment, he returned to Chicago. Due to his experience, he was eligible to join the Teamsters Union and continued working as an over-the-road truck driver until he retired. All this due to the vision and persistence of one man—F.D.R.!—William Oberschmidt, Saginaw, Michigan.

* * * on April 12, 1945. I was 13 years old at the time and I remember the nuns grieving at school and how sad everyone felt. It's about all anyone talked about or what you heard on the radio.

I don't think I understood the full impact of what Roosevelt had accomplished until I was stationed in the Pacific during the Korean War. I spent time on many of the Pacific Islands where the war took place and it made me realize what he had done to guide us through the second World War * * *—Jack Salter, Royal Oak, Michigan.

As a public official, I have given a lot of thought to the question of leadership. What is leadership and how does it manifest itself in public life? Although the answer to that question is far from clear or simple, it seems to be embodied in the memory of the person I consider our nation's greatest president, Franklin Delano Roosevelt.

My father was one of the millions who found themselves out of work after the Crash of 1929. He directly benefited from President Roosevelt's policies, taking part in the Civilian Conservation Corps. That program helped my dad get back on his feet, giving him, along with millions of others, hope and purpose at a time when both seemed in short supply.

Years later, facing another crisis—World War II—President Roosevelt came to my hometown, Warren, to visit the tank plant that was then producing Sherman Tanks by the thousands. Moved by the sacrifice, commitment and ingenuity of the people of southeast Michigan working to ensure that Naziism was defeated, he dubbed that plant the "Arsenal of Democracy."

Now we in Warren are trying to follow his example, as we work to transform the recently abandoned tank plant into a new kind of arsenal: an arsenal for economic growth. As I go to work each day, I frequently ask myself what President Roosevelt would have done with today's issues. Looking at the future of his Arsenal for Democracy, I believe that FDR would be pleased.—Mark A. Steenbergh, Mayor, City of Warren, Warren, Michigan.

My father subscribed to the Chicago Tribune during the depression since it was the cheapest paper in town at two cents a copy. The Tribune had cartoonist by the name of 'Orr'. His cartoon appeared on the front page of the Tribune and more often than not, his work of art was a slam against President Roosevelt. As it turned out, the subscription was a bad deal for my father, because my mother, being a staunch Democrat and a supporter of FDR, would wait for the mailman and promptly put the paper in the stove.—James F. Sodergren, Marquette County Treasurer, Ishpeming, Michigan.

I was a high school teacher during the Great Depression. According to my memory, the American people had great faith and believed that our President would do what was best for the "common good." We listened carefully and with pride to his fireside chats. * * *

And today, as we drive over miles of paved roads in northern Michigan, we marvel at the lines of majestic evergreens —so beautiful in summer and effective snow-barriers in winter! I relate with pride the work of the C.C.C., that group of younger men who earned their livelihood at that time by beautifying and preserving Michigan's natural environment. Roosevelt's foresight has kept Michigan a wonderful state!—Sister Agnes Thiel, O.P., Grand Rapids Dominicans, Grand Rapids, Michigan.●

HONORING THE LIFETIME ACHIEVEMENTS OF JACKIE ROBINSON

Mr. BENNETT. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of House Concurrent Resolution 61, and that the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 61) honoring the lifetime achievements of Jackie Robinson.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 61) was agreed to.

The preamble was agreed to.

AUTHORIZING A PERMANENT ADDITION TO THE FRANKLIN DELANO ROOSEVELT MEMORIAL IN WASHINGTON, DC

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Senate Joint Resolution 29, submitted earlier today by Senator INOUYE.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A joint resolution (S.J. Res. 29) to direct the Secretary of the Interior to design and construct a permanent addition to the Franklin Delano Roosevelt Memorial in Washington, D.C., and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. INOUYE. Mr. President, at the request of President Clinton, I rise to introduce legislation which directs the Secretary of the Interior to plan for the design and construction of a permanent addition to the Franklin Delano Roosevelt [FDR] Memorial.

The FDR Memorial Commission was organized in 1955 for the purpose of considering and formulating plans for the design, construction, and location of a permanent memorial to President Roosevelt. I have had the distinct pleasure of serving on the Commission for 27 years along with our former colleague, Senator Mark O. Hatfield.

The FDR Memorial will be dedicated on Friday, May 2, 1997. This memorial represents a plan and design that has undergone extensive review and study by the Commission of Fine Arts, the National Park Service, the Department of the Interior, and the Congress. After 23 years, and three design competitions, one of which bestowed a $50,000 award, the final design for the memorial was approved in 1978.

Approximately 2 years ago, after all design plans were approved, all funding appropriated by the Congress, and the construction of the memorial was well underway, the disabled community made a demand that the Commission add another statue of FDR in a wheelchair. In the early days, the children of Franklin and Eleanor Roosevelt made it clear they wanted no statue showing President Roosevelt in a wheelchair. I might add that during the approval process no member of the disabled community came forth to request the Commission amend the design plans for the memorial.

However, in an effort to be sensitive to their concerns yet historically accurate, the Commission agreed to display an exact replica of one of President Roosevelt's wheelchairs in the entry building of the memorial. It was determined that existing wheelchairs are too fragile to be loaned to the memorial. Consequently, Senator Hatfield and I instructed the National Park Service to prepare for display an exact replica of one of President Roosevelt's wheelchairs. A cabinetmaker is building the chair and other wooden parts, a wheelmaker is producing 18-inch rims and tires and a metalsmith is assembling the completed chair.

In addition, in the memorial's entry building there will be a display of mounted photographs of President Roosevelt, including one of the two known photographs of him in a wheelchair. The photograph to be displayed will be 12 inches tall and 9 inches wide. Also included in the memorial is a time line of the major events of FDR's life, carved in granite, which states: "1921 stricken with poliomyelitis—he never again walked unaided."

The Commission tried its best to ensure that the initial wishes of the Roosevelt family were carried out, along with the design plans approved by the Commission of Fine Arts. The Commission has also tried to be sensitive to

the concerns of those citizens having to spend their lives in a wheelchair. It is true that the depiction of President Roosevelt in a wheelchair will inspire the tragically afflicted. It may very well be a more honest way to depict President Roosevelt.

Accordingly, at President Clinton's request, I am pleased to introduce this legislation which directs the Secretary of the Interior to plan for the design and construction of a permanent addition to the FDR Memorial, and I thank my colleagues for their support and in the Senate acting expeditiously.

Mr. HARKIN. Mr. President, I am very pleased to join with my good friend and colleague Senator INOUYE in introducing legislation submitted by the Clinton administration to require the addition of a statue portraying FDR and his disability. This is an important measure that I hope will be quickly approved.

I have always said that it took a disabled President to lead a disabled nation. President Clinton has taken the right step in improving the FDR Memorial by allowing Americans to view a more complete picture of one of our Nation's greatest Presidents.

I look forward to the long-awaited dedication of the FDR Memorial this Friday. I have long thought this very important new memorial should include a statue depicting FDR in a wheelchair. Contrary to popular belief, President Roosevelt did at times purposely display his disability to inspire wounded veterans, persons with polio, and other groups of Americans. A statue portraying his disability will stand as a reminder to current and future generations of Americans that disability is a natural part of the human experience that in no way diminishes the ability of a person to fully participate in all aspects of American life.

As the author of the Americans With Disabilities Act, I was proud to be joined by leaders of the disability community, former Presidents Bush, Carter, and Ford, a number of Roosevelt's descendants, and many other Americans in calling for a permanent depiction of FDR with his disability at the memorial. Our challenge now is to take the necessary steps to make this additional statue part of the FDR Memorial as soon as possible.

Mr. BENNETT. Mr. President, I ask unanimous consent that the joint resolution be considered read a third time and passed, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the joint resolution appear at the appropriate place in the RECORD.

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

The joint resolution (S.J. Res. 29) was deemed read the third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 29

Whereas President Franklin Delano Roosevelt, after contracting poliomyelitis, required the use of a wheelchair for mobility and lived with this condition while leading the United States through some of its most difficult times; and

Whereas President Roosevelt's courage, leadership, and success should serve as an example and inspiration for all Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITION TO FRANKLIN DELANO ROOSEVELT MEMORIAL.

(a) PLAN.—The Secretary of the Interior (referred to in this Act as the "Secretary") shall plan for the design and construction of an addition of a permanent statue, bas-relief, or other similar structure to the Franklin Delano Roosevelt Memorial in Washington, D.C. (referred to in this Act as the "Memorial"), to provide recognition of the fact that President Roosevelt's leadership in the struggle by the United States for peace, well-being, and human dignity was provided while the President used a wheelchair.

(b) COMMISSION OF FINE ARTS.—The Secretary shall obtain the approval of the Commission of Fine Arts for the design plan created under subsection (a).

(c) REPORT.—As soon as practicable, the Secretary shall report to Congress and the President on findings and recommendations for the addition to the Memorial.

(d) CONSTRUCTION.—Beginning on the date that is 120 days after submission of the report to Congress under subsection (c), using only private contributions, the Secretary shall construct the addition according to the plan created under subsection (a).

SEC. 2. POWERS OF THE SECRETARY.

To carry out this Act, the Secretary may—

(1) hold hearings and organize contests; and

(2) request the assistance and advice of members of the disability community, the Commission of Fine Arts, and the National Capital Planning Commission, and the Commissions shall render the assistance and advice requested.

SEC. 3. COMMEMORATIVE WORKS ACT.

Compliance by the Secretary with this joint resolution shall satisfy all requirements for establishing a commemorative work under the Commemorative Works Act (40 U.S.C. 1001 et seq.)

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this joint resolution such sums as may be necessary.

NATIONAL CORRECTIONAL OFFICERS AND EMPLOYEES WEEK

Mr. BENNETT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Resolution 64, and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 64) to designate the week of May 4, 1997, as "National Correctional Officers and Employees Week."

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 64) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 64

Whereas the operation of correctional facilities represents a crucial component of our criminal justice system;

Whereas correctional personnel play a vital role in protecting the rights of the public to be safeguarded from criminal activity;

Whereas correctional personnel are responsible for the care, custody and dignity of the human beings charged to their care; and

Whereas correctional personnel work under demanding circumstances and face danger in their daily work lives:

Now, therefore, be it

Resolved, That the Senate designate the week of May 4, 1997, as "National Correctional Officers and Employees Week." The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Calendar Nos. 52 through 60, and all nominations placed on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy.

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

Mr. BENNETT. Mr. President, I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations were considered and confirmed as follows:

NATIONAL SCIENCE FOUNDATION

M.R.C. Greenwood, of California, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

John A. Armstrong, of Massachusetts, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

Stanley Vincent Jaskolski, of Ohio, to be a member of the National Science Board, National Sciece Foundation, for a term expiring May 10, 2002.

Jane Lubchenco, of Oregon, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2000.

Richard A. Tapia, of Texas, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

Mary K. Gaillard, of California, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

Bob H. Suzuki, of California, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

Eamon M. Kelly, of Louisiana, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

Vera C. Rubin, of the District of Columbia, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 2002.

IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Robert N. Agee, and ending Harry M. Wyatt, which nominations were received by the Senate and appeared in the Congressional Record of February 25, 1997.

Air Force nominations beginning John L. Bush, and ending David G. Talaba, which nominations were received by the Senate and appeared in the Congressional Record of February 27, 1997.

Air Force nominations beginning Barry S. Abbott, and ending Thomas F. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record of February 27, 1997.

Air Force nominations beginning Christopher R. Kleinsmith, and ending Steven L. Klyn, which nominations were received by the Senate and appeared in the Congressional Record of March 21, 1997.

Air Force nominations beginning Marilyn S. Abughusson, and ending Jesus E. Zarate, which nominations were received by the Senate and appeared in the Congressional Record of March 21, 1997.

Air Force nominations beginning John M. Barker, and ending Jessica R. Ybanezmorano, which nominations were received by the Senate and appeared in the Congressional Record of April 7, 1997.

Army nominations beginning *William M. Austin, and ending *Kenneth W. Stice, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 1997.

Army nominations beginning Richard H. Agosta, and ending Michael V. Walsh, which nominations were received by the Senate and appeared in the Congressional Record of January 7, 1997.

Army nominations beginning Richard Cooper, and ending Gregory Schannep, which nominations were received by the Senate and appeared in the Congressional Record of January 28, 1997.

Army nominations beginning *Ida F. Agamy, and ending *Scott E. Young, which nominations were received by the Senate and appeared in the Congressional Record of January 30, 1997.

Army nomination of George B. Garrett, which was received by the Senate and appeared in the Congressional Record of February 25, 1997.

Army nominations beginning Vincent J. Albanese, and ending Joseph T. Wojtasik, which nominations were received by the Senate and appeared in the Congressional Record of February 25, 1997.

Army nominations beginning James M. Caldwell, and ending Paul M. Warner, which nominations were received by the Senate and appeared in the Congressional Record of February 25, 1997.

Army nominations beginning Bryant H. Aldstadt, and ending *Jeffrey P. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record of February 27, 1997.

Army nomination of Larry W. Racster, which was received by the Senate and appeared in the Congressional Record of February 27, 1997.

Army nomination of Douglas R. Yates, which was received by the Senate and appeared in the Congressional Record of March 11, 1997.

Army nominations beginning Harry L. Bryan, Jr., and ending William L. Witham, Jr., which nominations were received by the Senate and appeared in the Congressional Record of March 21, 1997.

Army nomination of *Phuong T. Pierson, which was received by the Senate and appeared in the Congressional Record of March 21, 1997.

Marine Corps nominations beginning Dirk R. Ahle, and ending Philip N. Yff, which nominations were received by the Senate and appeared in the Congressional Record of March 5, 1997.

Marine Corps nomination of Todd H. Griffis, which was received by the Senate and appeared in the Congressional Record of April 7, 1997.

Marine Corps nominations beginning Roy P. Ackley, Jr, and ending Philip J. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record of April 7, 1997.

Marine Corps nominations beginning Robert J. Abblitt, and ending Robert M. Zeisler, which nominations were received by the Senate and appeared in the Congressional Record by April 7, 1997.

Navy nominations beginning Cal D. Astrin, and ending Arthur D. Whittaker, Jr, which nominations were received by the Senate and appeared in the Congressional Record of February 5, 1997.

Navy nominations beginning Jason T. Baltimore, and ending Masko Hasebe, which nominations were received by the Senate and appeared in the Congressional Record of February 25, 1997.

Navy nominations beginning Edward H. Lundquist, and ending John D. O'Boyle, which nominations were received by the Senate and appeared in the Congressional Record of March 11, 1997.

Navy nomination of Jamel B. Weatherspoon, which was received by the Senate and appeared in the Congressional Record of April 7, 1997.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR MONDAY, MAY 5, 1997

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 noon on Monday, May 5. I further ask unanimous consent that on Monday, immediately following the prayer, the routine requests through the morning hour be granted and that there then be a period for the transaction of routine morning business until the hour of 1 p.m., with Senators permitted to speak for up to 5 minutes each.

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

PROGRAM

Mr. BENNETT. For the information of all Senators, the Senate will not be in session on Friday of this week in order to accommodate a meeting scheduled for the Democratic Members of the Senate. The Senate will reconvene on Monday at 12 noon. After a period of morning business, at 1 p.m., the Senate will begin consideration of the supplemental appropriations bill. Amendments are expected to be offered on Monday. Therefore, votes could occur, but will not occur prior to the hour of 5 p.m., on Monday. We will notify Members as early as possible on Monday with respect to rollcall votes occurring on that day.

The Senate could also be asked to turn to any other Legislative or Executive Calendar items that can be cleared for action on Monday.

ADJOURNMENT UNTIL MONDAY, MAY 5, 1997

Mr. BENNETT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:08 p.m., adjourned until Monday, May 5, 1997, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 1, 1997:

NATIONAL SCIENCE FOUNDATION

M. R. C. GREENWOOD, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002.

JOHN A. ARMSTRONG, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002.

STANLEY VINCENT JASKOLSKI, OF OHIO, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002.

JANE LUBCHENCO, OF OREGON, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2000.

RICHARD A. TAPIA, OF TEXAS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002.

MARY K. GAILLARD, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002.

BOB H. SUZUKI, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002.

EAMON M. KELLY, OF LOUISIANA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002.

VERA C. RUBIN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2002.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING ROBERT N. AGEE, AND ENDING HARRY M. WYATT, WHICH NOMINATIONS

WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 25, 1997.

AIR FORCE NOMINATIONS BEGINNING JOHN L. BUSH, AND ENDING DAVID G. TALABA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 27, 1997.

AIR FORCE NOMINATIONS BEGINNING BARRY S. ABBOTT, AND ENDING THOMAS F. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 27, 1997.

AIR FORCE NOMINATIONS BEGINNING CHRISTOPHER R. KLEINSMITH, AND ENDING STEVEN L. KLYN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 21, 1997.

AIR FORCE NOMINATIONS BEGINNING MARILYN S. ABUGHUSSON, AND ENDING JESUS E. ZARATE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 21, 1997.

AIR FORCE NOMINATIONS BEGINNING JOHN M. BARKER, JR., AND ENDING JESSICA R. YBANEZ-MORANO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 7, 1997.

IN THE ARMY

ARMY NOMINATIONS BEGINNING *WILLIAM M. AUSTIN, AND ENDING *KENNETH W. STICE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 7, 1997.

ARMY NOMINATIONS BEGINNING RICHARD H. AGOSTA, AND ENDING MICHAEL V. WALSH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 7, 1997.

ARMY NOMINATIONS BEGINNING RICHARD COOPER, AND ENDING GREGORY SCHANNEP, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 28, 1997.

ARMY NOMINATIONS BEGINNING IDA F. *AGAMY, AND ENDING SCOTT F. *YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 30, 1997.

ARMY NOMINATION OF GEORGE B. GARRETT, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 25, 1997.

ARMY NOMINATIONS BEGINNING VINCENT J. ALBANESE, AND ENDING JOSEPH T. WOJTASIK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 25, 1997.

ARMY NOMINATIONS BEGINNING JAMES M. CALDWELL, AND ENDING PAUL M. WARNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 25, 1997.

ARMY NOMINATIONS BEGINNING BRYANT H. ALDSTADT, AND ENDING JEFFREY P. *ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 25, 1997.

ARMY NOMINATION OF LARRY W. RACSTER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 27, 1997.

ARMY NOMINATION OF DOUGLAS R. YATES, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 11, 1997.

ARMY NOMINATIONS BEGINNING HARRY L. BRYAN, JR., AND ENDING WILLIAM L. WITHAM, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 21, 1997.

ARMY NOMINATION OF *PHUONG T. PIERSON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 21, 1997.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING DIRK R. AHLE, AND ENDING PHILIP N. YFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 5, 1997.

MARINE CORPS NOMINATION OF TODD H. GRIFFIS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 7, 1997.

MARINE CORPS NOMINATIONS BEGINNING ROY P. ACKLEY, JR., AND ENDING PHILIP J. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 7, 1997.

MARINE CORPS NOMINATIONS BEGINNING ROBERT J. ABBLITT, AND ENDING ROBERT M. ZEISLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 7, 1997.

IN THE NAVY

NAVY NOMINATIONS BEGINNING CAL D. ASTRIN, AND ENDING ARTHUR D. WHITTAKER, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 5, 1997.

NAVY NOMINATIONS BEGINNING JASON T. BALTIMORE, AND ENDING MASKO HASEBE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 25, 1997.

NAVY NOMINATIONS BEGINNING EDWARD H. LUNDQUIST, AND ENDING JOHN D. O'BOYLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 11, 1997.

NAVY NOMINATION OF JAMEL B. WEATHERSPOON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 7, 1997.